



## ***Emergency Management Division***

Washington State Military Department

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# **Hazard Mitigation Grant Program**



Application Development Guide  
**June 2001**

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*Life, Property, Environment, Economy*



## ***Emergency Management Division***

Washington State Military Department

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# **Hazard Mitigation Grant Program Application Development Guide**

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*HAZARD MITIGATION GRANT PROGRAM  
APPLICATION DEVELOPMENT GUIDE*

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## I. INTRODUCTION

The purpose of this document is to provide Applicants with program information on the Hazard Mitigation Grant Program (HMGP). The HMGP is funded through Section 404 of Public Law 93-288, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as amended (See Appendix 5, Excerpts from P.L. 93-288, as amended).

The intent of the HMGP is to reduce the risk of future damage, hardship, loss, or suffering caused by major disasters by providing substantial financial support to carry out cost-effective hazard mitigation measures. These measures are to be identified as part of the mitigation planning process required of state and local governments as a condition of receiving federal disaster assistance.

To be eligible to apply for HMGP funds, Applicants must be agencies of state government, local governments (city, town, or county), special purpose districts, Indian tribes, and certain registered nonprofit organizations with like-government services and facilities. For all HMGP projects, the Applicant must also be participating and in good standing with the National Flood Insurance Program (or its successors) or located in a community that is.

### FREQUENTLY ASKED QUESTIONS (FAQ's)

*A. What is the Hazard Mitigation Grant Program?*

The HMGP is a program managed by the State of Washington to administer funds from the Federal Emergency Management Agency (FEMA).

*B. How long does it take to receive money from the HMGP?*

If eligible and recommended to FEMA, the time between the application due date and receipt of funds is four to eighteen months and is dependent upon the FEMA environmental analysis and National Environmental Policy Act (NEPA) process.

*C. How does the state determine which applications to fund?*

Following an in-depth initial eligibility review, applications that have been determined to be eligible within that disaster funding cycle are given to a five to six person committee made up of state and local officials (local officials are selected from outside the declared disaster area if possible). They score the narrative section based on how well the project meets state and federal goals as outlined in the application. Once the scores are completed, they are ranked and funding is recommended for as many Applicants as possible working down the list. Once the committee ranks projects, they are recommended to the Director of the Emergency Management Division. Upon approval, those applications are forwarded to FEMA for final approval and funding.

*D. Do we have to have a local mitigation plan or strategy?*

**Yes.** The Disaster Mitigation Act of 2000 requires state, local and tribal plans as a condition of receiving mitigation funds. However, we will be phasing in this requirement over the next few years. At this time, communities that have a mitigation plan will receive additional points/credits during the application evaluation process. Those communities that do not have a local mitigation plan will be required to develop one within 24 months of approval of grant funding. Additionally, communities will be required to have local plans by October of 2003 in order to be eligible to apply for HMGP funds.



*E. Does FEMA have a "BUY OUT" Program? How do I participate?*

FEMA does not have a BUY OUT program as defined as a "regular" program to acquire homes and other damaged structures. However, the acquisition of property and structures by an eligible jurisdiction is an eligible project type under the HMGP. Interested homeowners must work through an eligible Applicant.

*F. How much money can we apply for or receive?*

Amounts vary from disaster event to disaster event. There is a limited amount of funding made available to the state through FEMA based upon a formula of federal disaster costs and these funds are made available only after the President declares a major disaster. The state will make a determination based on the amount of funding available, the expected number of applications and the distribution of the applications around the declared disaster areas to determine how much funding will be made available to a jurisdiction. A project recommended for funding is normally eligible for 75% funding by FEMA and 12.5% funding from the state. The Applicant is responsible for the remaining costs and any cost overruns.

*G. When will we know if we will receive funding?*

The state will notify you shortly after the application review process to let you know if your project is being recommended to FEMA or not. However, FEMA has the final approval authority for the funding of all projects. (FEMA will also prepare all environmental review documents on the submitted projects). FEMA's final approval can take anywhere from 4 to 18 months from the time of the application due date to the state. The development of the grant agreement and obligation of federal funds for specific projects will be completed only upon receipt by the Emergency Management Division of formal notification of project approval from FEMA.

*H. How much can we use for administrative costs?*

In past disaster events, the costs of requesting, obtaining, and administering federal assistance, additional administrative monies were made available to the Department (grantee) and Applicants (subgrantees) per the following formula:

- For the first \$100,000 of net eligible costs, 3 percent of such costs.
- For the next \$900,000 of net eligible costs, 2 percent of such costs.
- For the next \$4,000,000 of net eligible costs, 1 percent of such costs in excess of \$1,000,000.
- For the next \$5,000,000 or more of net eligible costs, ½ percent of such costs.

These costs were separate from the project costs and could not be included in the grant request. This funding formula was known as the "3-2-1 money".

However, the grantee and subgrantee funding is being changed as a result of the Disaster Mitigation Act of 2000. Section 202 amends section 324 of the Stafford Act and the new Act establishes a new "Management Costs" rate. This rate will include "any indirect costs, any administrative expenses, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure." At this time, the rates have not been established.

*I. What is meant by "PUBLIC INVOLVEMENT" in the development and selection of the proposed action alternatives?*

Under the requirements of the National Environmental Policy Act (NEPA), both the general and the directly affected public must be provided an opportunity to comment on any proposal being submitted by the jurisdiction requesting federal funding. Preferably, they are given the opportunity to discuss other alternatives or solutions to the problems being addressed.

What this means in the real world can vary by community and type of project. At the very minimum, Applicants must place a notice in a local paper announcing the jurisdiction's intent to apply for a grant from the state and federal governments to solve a particular problem. The notice must provide a way for the public to comment on the problem and an opportunity to help develop the alternatives. If the project is going to impact homeowners (such as an acquisition or an elevation), the Applicant must have documentation showing that they have talked to the property owners and that they are willing to participate in the project.

Most successful communities have two to three open public meetings discussing alternatives, allowing citizens to voice their opinions and making adjustments to plans. For example, if you received funds from the HMGP and a citizen comes along with a complaint such as, "I live five miles away and my property was more damaged than the area you are working. Why did you not apply to fix the area around my home?" You must be able to show that you had provided an opportunity to comment on the proposed project.

Additionally, public meetings must be held early in the application development process. Applicants that wait until the last few weeks prior to the application deadline **have not** provided the public an adequate opportunity to comment on the project and help develop alternatives. Those applications that have not provided the public an opportunity to comment on the proposed project/problem will be INELIGIBLE.

## II. RESPONSIBILITIES

### A. State Government

The Washington State Military Department, Emergency Management Division (hereafter referred to as the Department) is assigned the responsibility of administering the Hazard Mitigation Grant Program as defined in this document. The Department will:

1. Develop and publish grant guidance, funding criteria and application forms;
2. Solicit qualified proposals from eligible Applicants;
3. Conduct Applicant briefings and workshops;
4. Convene, as needed, the Mitigation Grant Review Committee to review, evaluate, and recommend priority projects for funding;
5. Forward recommendations for funding to FEMA for final approval;
6. Withdraw projects from consideration, as necessary; and
7. Develop grant agreements with, and administer funds to, Applicants and submit quarterly and final reports to FEMA.

## B. Applicant

Applicants are responsible for the following:

1. Identification of projects.
2. Establishing local priorities and the submittal of applications to the state for funding consideration.
3. Providing any additional information necessary to comply with the National Environmental Policy Act (NEPA) and support FEMA in its completion of the environmental analysis.
4. Development of, submittal for approval, and the adoption of a local hazard mitigation plan as required under Section 322 of the Disaster Mitigation Act of 2000.

The Chief Executive Officer of the Community/Agency, or other legislative body, must designate an Applicant Agent to represent the Applicant to arrange for work, monitor and evaluate work completed, and provide all essential documentation to the Department. The Applicant Agent must also have authority to sign on behalf of the Applicant, such as legally binding the Applicant in the grant agreement. **NOTE: This designation must be completed for each individual disaster and for each individual program.** Example: if an individual is designated for FEMA-XX1, they must be re-designated for FEMA-XX2 and it should be program specific (i.e. HMGP, Public Assistance, etc.)

## C. Federal Government

The Director of FEMA Region X will review the state's recommendations for projects. FEMA has the final approval authority for funding of all projects. FEMA is also responsible for preparing all environmental review documents related to the submitted projects.

# III. FUNDING OF ELIGIBLE PROJECTS

## A. Federal

The Disaster Mitigation Act of 2000 (Public Law 106-390) amended the Stafford Act and increased funding for the HMGP for disasters declared after October 2000. The new increase will be based on an amount of up to 20 percent of the federal expenditures, for the disaster, under all categories of the Public Assistance and the Individual Assistance programs, less administrative costs. However, there are several new conditions that states must meet to be approved for the additional funding, and as of the publication of this document these criteria are still being developed by FEMA.

Project costs are shared on a 75 percent federal, 25 percent non-federal basis. Currently the non-federal share is split between the state and the Applicant (or 12.5 percent state and 12.5 percent Applicant). The non-federal share may vary by disaster and will be defined in the FEMA-State Agreement for that disaster. The development of the grant agreement and obligation of federal funds for specific projects will be completed only upon receipt by the Department of formal project approval from FEMA.



In past disaster events, the costs of requesting, obtaining, and administering federal assistance, additional administrative monies were made available to the Department (grantee) and Applicants (subgrantees) per the following formula:

- For the first \$100,000 of net eligible costs, 3 percent of such costs.
- For the next \$900,000 of net eligible costs, 2 percent of such costs.
- For the next \$4,000,000 of net eligible costs, 1 percent of such costs in excess of \$1,000,000.
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These costs were separate from the project costs and could not be included in the grant request. This funding formula was known as the “3-2-1 money”.

However, the grantee and subgrantee funding is being changed as a result of the Disaster Mitigation Act of 2000. Section 202, which amends section 324 of the Stafford Act, the new Act establishes a new “Management Costs” rate which will include “any indirect costs, any administrative expenses, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.” At this time, the rates have not been established.

## **B. Applicant**

The Applicant's share of the project costs may be composed of Applicant-generated revenue and private sector resources (loans, etc.). In some situations other state grant funds and Community Development Block Grant funds can be used as part of the local match, as long as they are not precluded so by law. Applicant contributions can also be in the form of documented in-kind services. Volunteer labor and materials, actual in-house labor and equipment costs, are just some of the types of in-kind services that may be considered as part of the Applicant share. However the HMGP is a grant “reimbursement” program and Applicants should have sufficient resources to begin the project.

## **C. State**

The state's share of the project costs is established in the FEMA-State Agreement signed by the Governor. Currently the state's share of project costs is one-half of the non-federal share of the approved project costs.

The Department and the Applicant will execute a grant agreement outlining agreed-upon costs, reimbursements, scope of work, and estimated completion schedules. Grant agreements are only developed following approval and receipt of funding documents from FEMA. Funds are reimbursed to the Applicant once documentation of work is completed, and of which payment is being requested, and is provided to the Department. Reimbursements may be made intermittently throughout the grant period, or all at once, upon conclusion and satisfaction of the grant conditions and requirements.

#### IV. PROJECT ELIGIBILITY REQUIREMENTS

Below are the criteria that are required by both FEMA and the Department in order for an application to meet the HMGP eligibility requirements. While this section does not outline projects NOT eligible for funding through HMGP (such as levees), these criteria will help the Applicant in identifying those projects most appropriate for funding with HMGP. If, after reviewing these criteria, questions remain regarding the eligibility, the Applicant should contact the State Hazard Mitigation Officer at EMD. It should be noted that there is no appeal process for those projects that are determined to be ineligible for HMGP funding.

##### A. Federal Criteria

In addition to the federal requirements noted in Sec. 206.434, 44 CFR (Appendix 1), a project must:

1. Solve the problem it is intended to address;
2. Be located in a community participating and in good standing in the National Flood Insurance Program (NFIP);
3. Meet all applicable federal, state, and local permit requirements, and **“not contribute to or encourage development in the floodplain, wetlands, or other hazardous areas,”** and support environmental justice (Federal Executive Orders 11988, 11990 and 12898.); and
4. Be cost effective in that it:
  - a. Addresses a problem that has been repetitive, or a specific problem that poses a significant risk if left unsolved;
  - b. Will not cost more than the anticipated value of the reduction in both damages and subsequent negative impacts to the area, if future disasters were to occur;
  - c. Has been determined to be the most practical, effective and environmentally-sound alternative after consideration of a range of options;
  - d. Contributes, to the extent practical, to a permanent or long-term solution of the problem it is intended to address; and
  - e. Considers long-term changes to the areas and entities it protects, and has manageable future maintenance and modification requirements.

##### B. State Criteria

In addition to the above criteria, a project must also support the general hazard mitigation objectives contained in *Washington State Hazard Mitigation Strategies*. Projects should:

1. Show adoption of a local hazard mitigation plan;
2. Protect lives and reduce public risk;
3. Reduce the level of disaster vulnerability in existing structures;
4. Reduce the number of vulnerable structures through acquisition, relocation, or flood proofing (See Appendix 6, FEMA HMGP Guidance for Acquisitions & Relocation and Appendix 7, Relocation Assistance to Tenants Worksheet);

5. Avoid future inappropriate development in areas vulnerable to future disasters;
6. Solve a problem independently, or function as a beneficial part of an overall solution with assurance that the whole project will be completed;
7. Provide a cooperative, inter-jurisdictional solution to reduce future disaster damage;
8. Provide a long-term mitigation solution;
9. Address emerging hazard damage issues such as urban stormwater, trees in power right of ways;
10. Restore or protect natural resources, recreation, open spaces, and other environmental values;
11. Develop and implement comprehensive programs, standards, and regulations that reduce disaster damage;
12. Increase public awareness of natural hazards, preventative measures, and emergency responses to disasters;
13. Upon completion, have affordable operation and maintenance costs; and
14. Illustrate how the project improves the Applicant's ability to protect its critical areas according to the Growth Management Act (GMA), and generally supports the goals of the GMA.

## **V. SOLICITATION OF APPLICATIONS**

Following a presidential declaration of a major disaster in the state of Washington, the State Hazard Mitigation Officer (SHMO) will make every effort to publicize the Hazard Mitigation Grant Program and inform potential Applicants of the availability of mitigation grant funding. Appendix 2 is a Fact Sheet on HMGP.

Information on the program will be given during all public assistance Applicant briefings. Also, letters and information may be sent to emergency management offices within affected counties, participants in the Public Assistance program, and other interested parties. Information will also be distributed at all mitigation training and briefings.

At the discretion of the State and Federal Hazard Mitigation Officers, a joint press release describing the program may be issued. This release will contain program information and requirements, a "Letter of Intent," application deadlines, and a point of contact for further information. The "Letter of Intent" must be received by the Department within the time established. Submission of a "Letter of Intent" is an initial requirement for any Applicant to receive an HMGP application.

## **VI. PROJECT IDENTIFICATION**

In addition to the project application process outlined above, the SHMO will identify and encourage appropriate mitigation projects by doing the following:

- A. Prior to the Preliminary Damage Assessment (PDA), brief survey teams on the Hazard Mitigation Grant Program and enlist their help in identifying potential mitigation projects and issues;
- B. Brief the Public Assistance Damage Survey Report Teams that will complete detailed inspections of damaged facilities so that they may identify broad or comprehensive projects that impact several sites. Teams will report findings to the SHMO;
- C. Review hazard mitigation team (Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team) reports from previous and current federally declared disasters to identify potential projects for funding;

- D. Review unfunded grant applications from prior declared disasters, activities, or state priorities for possible funding; and
- E. Review local hazard mitigation plans from declared jurisdictions.

## VII. PROJECT CRITERIA - *What Makes a Successful Project Application?*

In addition to meeting the state and federal criteria on pages 7 and 8, successful HMGP project applications **MUST** also document the:

- A. In-depth development of at least three (3) viable alternatives, one of which may be the No Action alternative. The Proposed Action alternative (the recommended project) must have *been determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options*. All three alternatives must be fully developed and discussed in order for the application to be considered; and
- B. Recent\* public involvement in the development and selection of the alternatives, especially with those individuals who may be impacted by the project. Public involvement and notice are requirements under the National Environmental Policy Act (NEPA). Applications that do not have this documentation, especially those that affect property owners, will be **ineligible**.

***\*Recent public involvement is defined within the HMGP as public involvement within one year from the time the Applicant submits its application (as in the case of a repetitive hazard being discussed in the community). Public meetings and notice(s) conducted prior to the date of the declared disaster cannot be used to fulfill this requirement, but should be included to illustrate the hazard.***

Applications that do not include the above two (2) items are **incomplete** and will be **ineligible** for funding consideration.

**NOTE:** *Due to National Environmental Policy Act (NEPA) requirements and guidance from the President's Council on Environmental Quality (CEQ), projects that have been started or completed prior to approval will not be eligible for funding.*

## VIII. APPLICATION PROCESS

With a Presidential Disaster Declaration that provides Public Assistance or Individual Assistance program funds to the state of Washington, the state also receives Hazard Mitigation Grant Program funds. The following process is used to administer the program (See Appendix 3 Step-by-Step Application Directions).

## A. Submission of Applications to the State

The Department will solicit "Letters of Intent" from Applicants normally within 30 - 45 days of the disaster declaration, or some reasonable period following a catastrophic disaster. Normally, upon receipt and processing of the Applicant Letters of Intent, the Department will send applications to the interested Applicants for completion.

A date will be established by the state for the return of the completed applications (normally 60-90 days from receipt of the application). This date will allow enough time to ensure compliance with all environmental requirements, development of alternatives, and the public involvement process. However, due to changing FEMA policy on the HMGP process, Applicants are encouraged to begin project identification through the local planning process in order to meet future reduced application timelines.

## B. Review, Ranking and Selection of Projects

### 1. Review Process

The Department will review all applications for completeness and to ensure they meet state and federal eligibility criteria. All Applicants will be notified whether their application passes this threshold. There is no appeal of the state's determination of ineligibility.

If necessary, a Mitigation Grant Review Committee will be appointed, to review and make funding recommendations on the applications.

### 2. Ranking Process and Criteria

If a Mitigation Grant Review Committee is deemed necessary, it will rank all eligible projects. The Committee will use an Application Evaluation Package to score the applications. Ranking will include consideration based on meeting the:

- a. Objectives and criteria of Washington State Hazard Mitigation Strategies (the state 409 plan);
- b. Federal and state criteria as outlined earlier this document;
- c. CFR Section 206.435 (b);
- d. Available funding; and
- e. Previous and current HMGP participation. (Applicants are normally limited to three active projects at any one time.)

The SHMO will provide information on the projects to the Division Director, in prioritized order, those grant applications as recommended for FEMA approval by the Mitigation Grant Review Committee.

Applicants will be formally notified of the results of the ranking and review process and of their recommended, or non-recommended, status by the DEPARTMENT. Applicants not being recommended for funding may appeal this decision under specific criteria. (See Appendix 4, Applicant Appeal Process)

If the situation warrants, a percentage of the Hazard Mitigation grant funds may be set aside to accomplish projects as outlined in Washington State Hazard Mitigation Strategies (the state 409 plan). These projects will be exempt from the Committee ranking process.

#### **A. Submission of Selected Projects to FEMA**

1. The SHMO will prepare a project package, for transmittal to FEMA by the Division Director, containing:
  - a. A narrative describing the anticipated projects and justification for recommendation and rationale for each project;
  - b. Copies of recommended applications and additional pertinent information;
  - c. A certification by the Department that the projects meet all federal and state eligibility requirements; and
  - d. A completed SF 424 (Application for Federal Assistance), which requests funding for all projects recommended.
2. Upon notification from FEMA of a decision on selected projects, the SHMO will notify Applicants of FEMA's decision.
  - a. Funded Projects
 

Approved and funded Applicants will be provided a copy of the HMGP Guidelines for Approved Projects. This document will help answer contracting questions and contains information on:

    1. Reporting requirements;
    2. Process for requesting funds;
    3. Information on administrative costs; and
    4. the Grant Agreement between the state and the Applicant.
  - b. Non-approved/Unfunded Projects
 

Upon notification from FEMA of projects that are not approved and not funded, the SHMO will send a letter to Applicants on non-approval and non-funding. Specific criteria for appealing the federal decision will be provided.

#### **B. Withdrawal of Recommended Projects**

The state may opt to withdraw a project from consideration by FEMA. The following is a short list of some of the possible reasons that may cause a project to be withdrawn:

1. Misrepresentation(s) by the Applicant in the application;
2. Non-covered cost increases prior to FEMA approval;
3. Loss, or reduction, of committed funding;
4. Failure to maintain eligibility as described in this document or as outlined in 44 CFR 206.434;
5. Lack of public participation; and
6. Major changes in the recommended project scope of work.

The Department reserves the right to deny application rating or funding when submitted applications involve eligible general purpose or special purpose units of governments with serious unresolved audit findings related to performance capacity.

Further, the Department reserves the right to postpone project contracting or to deny funding if there is a significant problem with previous Subgrantee performance, such as failure to complete projects in agreed upon times, major cost overruns, failure to provide required documentation in a timely manner, etc. In such situations, the Grantee is responsible for the development and initiation of corrective action satisfactory to the Department.

## **IX. PROGRAM ADMINISTRATION**

For informational purposes, and to help explain the HMGP process, the following information is provided on the program administration.

### **A. State Administrator**

1. The State Hazard Mitigation Officer (SHMO) is responsible for project management and record keeping, including project files which contain all correspondence, applications, vouchers, reports, receipts, and related documentation.
2. The SHMO will oversee preparation of the state/local grant agreement outlining the work to be done and costs.
3. Quarterly progress reports will be submitted to FEMA by the SHMO based on the reports provided by the Applicant Agent. A final report will also be required from each Applicant, and close-out documents will be submitted to FEMA by the HMGP Administrator.

\*NOTE : Failure by the Applicant to submit quarterly reports may be cause for the termination of a grant.

### **B. Financial Management**

1. The Department will serve as Grantee for project financial management in accordance with 44 CFR, Part 13. Subgrantees (Applicant) are accountable to the Grantee for funds that are awarded.
2. Subgrantees are the legal entities to which the state awards money for projects. They can be a state agency, local government, special purpose district, eligible private nonprofit organizations with like government services and facilities, or Indian Tribe. Subgrantees are responsible to the Grantee for expenditures, work performed, and reporting requirements.
3. Allowable costs associated with administering the program are authorized in accordance with Section 206.439, 44 CFR.
4. Project costs will be reimbursed on an actual cost basis up to the contract amount. Twelve and one-half percent (equivalent to the state's share) may be retained pending project completion and close-out. The Subgrantee administrative funds will be paid out only upon final inspection and project acceptance.

5. Payment will be based on Subgrantee submittal of an A-19, Voucher Distribution form and documentation of expenditures.
6. Cost overruns will be the responsibility of the Applicant.
7. Final Payment:
  - a. The Applicant Agent will submit a final A-19 Voucher Distribution and final report to the SHMO after the project work has been completed.
  - b. A final inspection of the completed project will be performed by the state. A joint State/FEMA inspection will be conducted when possible. FEMA will notify and coordinate any additional inspections by FEMA staff prior to the inspection. Final payments will be made upon completion of the state's final inspection as specified in the grant agreement.

## **X. AUDIT REQUIREMENTS**

Uniform audit requirements as set forth in 44 CFR, Part 14 apply to all grant assistance provided under this program. FEMA may elect to conduct a federal audit on the Hazard Mitigation grant or on any of the subgrants.

## **XI. CLOSE-OUT PROCEDURES**

- A. The Subgrantee will submit close-out information in the form of a final report on work done, expenditures, and other costs.
- B. The Department shall schedule a final inspection of the project with the Subgrantee and will notify FEMA of the inspection date.
- C. Project close-out will be noted in the project files upon completion of all inspection reports and outstanding documents.
- D. Final payment to Subgrantee shall be made upon final review. (Usually including Subgrantee administrative funds.)

## **XII. ADMINISTRATIVE DOCUMENT REVIEW**

This document will be reviewed annually, or after a Presidential Disaster Declaration, to ensure compliance with the law, implementing regulations, and state policies. It will be updated as needed to reflect regulatory or policy changes, or to improve program administration.



### XIII. AUTHORITIES AND REFERENCES

- A. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended by PL 100-707, Sections 404 and 409.
- B. Federal Emergency Management Agency (FEMA) Regulations, 44 CFR, Part 206, Subparts M and N.
- C. FEMA Regulations, 44 CFR, Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- D. Single Audit Act of 1984.
- E. Chapter 38.52, Revised Code of Washington, Emergency Management.

### XIV. DEFINITIONS

Selected definitions are shown below. A complete list of applicable definitions is found in 206.431, Subpart N of 44 CFR Part 206 (Appendix 1).

"Applicant" means a state agency, local government, special district, eligible private nonprofit organization, or Indian Tribe.

"Grant" means an award of financial assistance.

"Grantee" will mean the State of Washington.

"Jurisdiction" means the same as "Applicant" and is interchangeable.

"Subgrant" means an award of financial assistance under a grant to an eligible Applicant.

"Subgrantee" means the Applicant, government or other legal entity to which a sub-grant is awarded and which is accountable to the grantee for the use of the funds provided. *(This is the wording used to reference the Applicant on the FEMA funding documents)*

"State Hazard Mitigation Officer (SHMO)" means the individual designated as the responsible individual for all matters related, overall, to the Hazard Mitigation Grant Program, and the Section 409 Hazard Mitigation Planning Program, Sections 404 and 409 respectively of PL 93-288, as amended.

"Project" means any eligible mitigation measure or action to reduce risk of future damage, hardship, loss or suffering from disasters. The terms "project" and "measure" are used interchangeably in the regulations.

"Mitigation Grant Review Committee" means the five (5) member grant application review body at the state level.

"Washington State Hazard Mitigation Strategies" The state 409 plan; the disaster specific document that identifies statewide hazard damage reduction goals and objectives, the means to accomplish them, and a time frame for implementation.

## **XV. APPENDICES**

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## Code of Federal Regulations

[Title 44, Volume 1]

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TITLE 44--EMERGENCY MANAGEMENT AND ASSISTANCE  
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PART 206--FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR  
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Subpart M--Hazard Mitigation Planning

Source: 55 FR 35529, Aug. 30, 1990, unless otherwise noted.

### Sec. 206.400 General.

This subpart prescribes the requirements for implementation of section 409 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended, hereinafter referred to as the ``Stafford Act'') and prescribes Federal, State and local hazard mitigation planning responsibilities following the declaration of a major disaster or emergency, or declaration for fire suppression assistance pursuant to section 420 of the Stafford Act.

### Sec. 206.401 Definitions.

*Federal Hazard Mitigation Officer* is the FEMA employee responsible for carrying out the overall responsibilities for hazard mitigation and for this subpart, including coordinating post-disaster hazard mitigation actions with other agencies of government at all levels. Hazard Mitigation means any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards. Hazard Mitigation Grant Program means the program authorized under section 404 of the Stafford Act, which may provide funding for certain mitigation measures identified through the evaluation of hazards conducted under section 409 of the Stafford Act.

*Hazard Mitigation Plan* means the plan resulting from a systematic evaluation of the nature and extent of vulnerability to the effects of natural hazards present in society and includes the actions needed to minimize future vulnerability to hazards, as required under section 409 of the Stafford Act.

*Hazard Mitigation Plan Update* means an update to the existing hazard mitigation plan, which may be accomplished either by updating the status of mitigation actions within the existing plan, or by expanding the existing plan to address additional hazards or mitigation issues.

*Hazard Mitigation Survey Team* means the FEMA/State/Local survey team that is activated following disasters to identify immediate mitigation opportunities and issues to be addressed in the section 409 hazard mitigation plan. The Hazard Mitigation Survey Team may include representatives of other Federal agencies, as appropriate.

*Interagency Hazard Mitigation Team* means the mitigation team that is activated following flood related disasters pursuant to the July 10, 1980 Office of Management and Budget directive on Nonstructural Flood Protection Measures and Flood Disaster Recovery, and the subsequent December 15, 1980 Interagency Agreement for Nonstructural Damage Reduction.

*Local Hazard Mitigation Officer* is the representative of local government who serves on the Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team and who is the primary point of contact with FEMA, other Federal agencies, and the State in the planning and implementation of post-disaster hazard mitigation activities.

*Measure* means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters.

*Natural Disaster* is any natural catastrophe, including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, fire, or drought.

*State Hazard Mitigation Officer* is the representative of State government who is the primary point of contact with FEMA, other Federal agencies, and local units of government in the planning and implementation of post-disaster mitigation programs and activities required under the Stafford Act.

#### Sec. 206.402 Responsibilities.

- (a) *General*. This section identifies the key responsibilities of FEMA, States, and local participants in carrying out the requirements of section 409 of the Stafford Act.
- (b) FEMA. The key responsibilities of the FEMA Regional Director are to:
- (1) Oversee all FEMA-related pre- and post-disaster hazard evaluation and mitigation programs and activities;
  - (2) Appoint a Federal Hazard Mitigation Officer for each disaster to manage hazard mitigation programs and activities;
  - (3) Provide technical assistance to State and local governments in fulfilling mitigation responsibilities;
  - (4) Conduct periodic review of State hazard mitigation activities and programs to ensure that States are adequately prepared to meet their responsibilities under the Stafford Act;
  - (5) Assist the State in the identification of the appropriate mitigation actions that a State or locality must take in order to have a measurable impact on reducing or avoiding the adverse effects of a specific hazard or hazardous situation.
  - (6) Subsequent to a declaration, follow-up with State and local governments to ensure that mitigation commitments are fulfilled, and when necessary, take action, including recovery of funds or denial of future funds, if mitigation commitments are not fulfilled.
- (c) States. The key responsibilities of the State are to coordinate all State and local responsibilities regarding hazard evaluation and mitigation, and to:
- (1) Appoint a State Hazard Mitigation Officer, who reports to the governor's authorized representative, and who serves as the point of contact for and coordinates all matters relating to section 409 hazard mitigation planning and implementation;
  - (2) Prepare and submit, in accordance with the FEMA/State Agreement and the requirements of this subpart, a hazard mitigation plan(s) or update to existing plan(s), as required under Sec. 206.405. Such plan or update is to include an

- evaluation of the natural hazards in the declared area, and an identification of appropriate actions to mitigate those hazards;
- (3) Participate in the Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team activated after the declaration;
- (4) Arrange for appropriate State and local participation on the Hazard Mitigation Survey Team or Interagency Hazard Mitigation Team and in the section 409 planning process;
- (5) Follow-up with State agencies and local governments to assure that appropriate hazard mitigation actions are taken. This involves coordination of plans and actions of local governments to assure that they are not in conflict with each other or with State plans;
- (6) Ensure that the activities, programs and policies of all State agencies related to hazard evaluation, vulnerability, and mitigation are coordinated and contribute to the overall lessening or avoiding of vulnerability to natural hazards.

(d) *Local governments.* The key responsibilities of local governments are to:

- (1) Participate in the process of evaluating hazards and adoption of appropriate hazard mitigation measures, including land use and construction standards;
- (2) Appoint a Local Hazard Mitigation Officer, if appropriate;
- (3) Participate on Hazard Mitigation Survey Teams and Interagency Hazard Mitigation Teams, as appropriate;
- (4) Participate in the development and implementation of section 409 plans or plan updates, as appropriate;
- (5) Coordinate and monitor the implementation of local hazard mitigation measures.

#### Sec. 206.403 Pre-declaration activities.

- (a) *General.* As part of FEMA's response to a Governor's request for a declaration, FEMA will evaluate information concerning the status of hazard mitigation efforts in the impacted State and localities.
- (b) *Mitigation evaluation.* The mitigation review of State and local government activities in the Impacted area shall include:
  - (1) The status of a statewide comprehensive hazard mitigation plans, programs, or strategies;
  - (2) The status of hazard mitigation plans or plan updates required as a condition of any previous declaration;
  - (3) The status of any actions which the State or localities agreed to undertake as a condition of past disaster assistance;
  - (4) The status of any mitigation measures funded under section 404 of the Stafford Act for any previous declaration;
  - (5) The status of any other hazard evaluation and mitigation projects funded under other FEMA or other Federal agency programs;
  - (6) An evaluation of the impact of the hazard(s) and any corresponding mitigation issues pertinent to the area for which Federal disaster assistance is being requested;
  - (7) Any other hazard evaluation and mitigation information available and considered relevant.
- (c) *FEMA-State agreement.* Based on the conditions warranted by the declaration, and on the findings of the mitigation evaluation, the FEMA-State Agreement shall include appropriate mitigation provisions, such as the requirement to prepare a hazard mitigation plan or update.

#### Sec. 206.404 Mitigation survey teams.

- (a) Hazard mitigation surveys. Hazard mitigation surveys are performed immediately following the declaration of a disaster to identify the following:
  - (1) Hazard evaluation and mitigation measures that must be incorporated into the recovery process;
  - (2) Possible measures for funding under the Hazard Mitigation Grant Program, or under other disaster assistance programs;
  - (3) Issues for inclusion in the section 409 hazard mitigation plan.
- (b) *Hazard Mitigation Survey Teams.* Hazard Mitigation Survey Teams shall be activated by the Regional Director immediately following the declaration to conduct hazard mitigation surveys. The Hazard Mitigation Survey Team shall consist of FEMA, State, and appropriate local government representatives, and representatives of any other Federal agencies that may be appropriate. In the case of flood declarations, the Interagency Hazard Mitigation Team will serve the purpose of the Hazard Mitigation Survey Team.
- (c) *Survey team reports.* Within 15 days following a declaration Hazard Mitigation Survey Team report shall be prepared and distributed in accordance with FEMA policies and procedures. The Regional Director has the authority to extend this due date when necessary.

Sec. 206.405 Hazard mitigation plan.

- (a) *General.* In order to fulfill the requirement to evaluate natural hazards within the designated area and to take appropriate action to mitigate such hazards the State shall prepare and implement a hazard mitigation plan or plan update. At a minimum the plan shall contain the following:
  - (1) An evaluation of the natural hazards in the designated area;
  - (2) A description and analysis of the State and local hazard management policies, programs, and capabilities to mitigate the hazards in the area;
  - (3) Hazard mitigation goals and objectives and proposed strategies, programs, and actions to reduce or avoid long term vulnerability to hazards,
  - (4) A method of implementing, monitoring, evaluating, and updating the mitigation plan. Such evaluation is to occur at least on an annual basis to ensure that implementation occurs as planned, and to ensure that the plan remains current.
- (d) *Plan approach.* Hazard mitigation plans should be oriented toward helping States and localities to develop hazard management capabilities and programs as part of normal governmental functions. All States are encouraged to develop a basic mitigation plan prior to the occurrence of a disaster, so that the basic plan can simply be expanded or updated to address specific issues arising from the disaster. At the time of a declaration, the Regional Director, in consultation with the State, shall determine whether a new mitigation plan is required as a result of the declaration, or whether an existing plan can simply be updated or expanded.
- (e) *Plan content and format.* The specific content and format of a hazard mitigation plan or plan update shall be determined through guidance and technical assistance that the Regional Director provides to the State during the section 409 planning process. At a minimum, the plan or update must address the items listed in paragraph (a) of this section.
- (f) *Plan submission.* All States shall submit a hazard mitigation plan or plan update on behalf of the State and any appropriate local governments included in the designated area. The plan or update is due to FEMA within 180 days of the date of the declaration. The Regional Director may grant extensions to this date not to exceed 365 days from the date of the

declaration when adequate justification is received in writing from the State. Extensions beyond that date must be forwarded with justification to the Associate Director for approval.

- (g) Plan approval. Upon receipt of a hazard mitigation plan or plan update, the Regional Director shall acknowledge receipt in writing to the Governor or appropriate agency. Written comments shall state whether the plan is approved, shall detail any shortcomings that may exist, and shall include a suggested method and timeline for correction if necessary.

#### Sec. 206.406 Hazard mitigation planning process.

- (a) *General.* A sound planning process is essential to the development and implementation of an effective hazard mitigation plan. A critical element of successful mitigation planning is the involvement of key State agencies, local units of government, and other public or private sector bodies or agencies that influence hazard management or development policies within a State or local unit of government. This section identifies principal components of the mitigation planning process.
- (b) *FEMA technical assistance.* States may request the Regional Director to provide technical assistance and guidance throughout the planning process to ensure that the plan or update adequately addresses mitigation concerns related to the disaster. Technical assistance may include but is not limited to:
  - (1) Identification of mitigation issues through the Interagency Hazard Mitigation Team or Hazard Mitigation Survey Team report;
  - (2) Initial meeting with the State to identify key staff, timeline, and scope of work for development of the hazard mitigation plan or update;
  - (3) Review of timelines, outlines, drafts, and other appropriate material during development of the hazard mitigation plan or update.
  - (4) Provision of Federal technical assistance information and identification of technical experts, if needed.
- (c) *State involvement.* Though the primary responsibility for development of a hazard mitigation plan is assigned to one State agency, any State agency that influence development within hazardous areas through ongoing programs and activities should be involved in the development and implementation of hazard mitigation plans. This includes, but is not limited to, agencies involved with emergency management, natural resources, environmental regulations, planning and zoning, community development, building regulations, infrastructure regulation or construction, public information, and insurance. It is the responsibility of the State agency assigned lead responsibility for hazard mitigation to ensure that all other appropriate State agencies have the opportunity to participate in development and implementation of hazard mitigation planning.
- (d) *Local involvement.* Local participation in hazard mitigation planning is essential because regulation and control of development within hazardous areas normally occurs at the local level. It is the responsibility of the State to ensure that appropriate local participation is obtained during development and implementation of hazard mitigation planning.
- (e) *Private sector involvement.* When appropriate, a State or local government may choose to involve the private sector in the planning process. Support from the private sector is often essential to successful implementation of mitigation strategies at the local level. Involvement of the private sector in the early stages of the planning process may facilitate understanding and support for mitigation.



- (f) *Development of hazard mitigation goals and objectives.* The participants in the planning process shall develop the basic mitigation goals and objectives from which the proposed hazard mitigation strategies, programs, and actions required under Sec. 206.405(3) shall be drawn.
- (g) *Identification of projects to be funded under the Hazard Mitigation Grant Program.* The Hazard Mitigation Grant Program, authorized under section 404 of the Stafford Act, provides up to 50 percent Federal funding for cost-effective mitigation measures that are consistent with the evaluation of hazards under section 409. Throughout the process of preparing a hazard mitigation plan or plan update, the State and local governments will be evaluating natural hazards and identifying potential mitigation measures which may be eligible for funding under the Hazard Mitigation Grant Program. 44 CFR part 206, subpart N sets forth the regulations for funding these mitigation measures.
- (h) *Coordination with other hazard evaluation and mitigation planning efforts.* During the process of developing a mitigation plan to satisfy requirements under this subpart, the State will ensure that the planning effort is coordinated with any other hazard evaluation and mitigation planning program within the State or local unit of government, including but not limited to the Disaster Preparedness Improvement Grant Program, the Hurricane Program, the Earthquake Hazard Reduction Program, the Dam Safety Program, the National Flood Insurance Program, and other similar programs of FEMA and other Federal agencies.
- (i) *Evaluation and monitoring.* The State is responsible for monitoring and evaluating implementation of the hazard mitigation plan and for submitting annual progress reports to FEMA. The progress report will briefly indicate the status of implementation of the mitigation actions contained within the plan, and will include documentation relating to measures which have been implemented, where appropriate. The Regional Director may require the State to provide additional progress reports or more specific information on particularly critical mitigation actions, if necessary.

Sec. 206.407 Minimum standards.

- (a) *General.* As a condition of any disaster loan or grant made under the Stafford Act, section 409 requires that the recipient shall agree that any repair or construction shall be in accordance with applicable standards of safety, decency, and sanitation, and in conformity with applicable codes, specifications, and standards. The hazard mitigation planning process required under section 409 can assist with the identification of inadequate standards as described below.
- (b) *Local standards.* The cost of bringing a facility up to minimum standards is an eligible cost under subpart H of this part when such standards apply to the types of work being performed. These standards, including standards for hazard mitigation, can either be in place at the time of the disaster or can be adopted prior to approval of the project. Where current mitigation standards are inadequate, new standards may be identified in the following ways:
  - (1) Through the Interagency Hazard Mitigation Team or Hazard Mitigation Survey Team;
  - (2) Through the hazard mitigation planning process;
  - (3) By the State or local governments;
  - (4) Through the public assistance program; and,
  - (5) Through identification of mitigation measures under the Hazard Mitigation Grant Program.

- (c) *Compliance*. The State shall ensure that the sub-grantee meets compliance with minimum standards as that term is used in section 409.
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## Code of Federal Regulations

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### TITLE 44--EMERGENCY MANAGEMENT AND ASSISTANCE

#### CHAPTER I--FEDERAL EMERGENCY MANAGEMENT AGENCY

#### PART 206--FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988--Table of Contents

#### Subpart N--Hazard Mitigation Grant Program

Source: 55 FR 35537, Aug. 30, 1990, unless otherwise noted.

#### Sec. 206.430 General.

This subpart provides guidance on the administration of hazard mitigation grants made under the provisions of section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c, hereafter Stafford Act, or the Act.  
[59 FR 24356, May 11, 1994]

#### Sec. 206.431 Definitions.

- (a) *Applicant* means a State agency, local government, or eligible private nonprofit organization, as defined in subpart H of this part, submitting an application to the Governor's Authorized Representative for assistance under the Hazard Mitigation Grant Program.
- (b) *Application* means the initial request for section 404 funding, as outlined in Sec. 206.436.
- (c) *Grant* means an award of financial assistance. The total grant award shall not exceed ten percent of the estimated Federal assistance provided under section 406 of the Stafford Act for major disasters declared before June 10, 1993. For major disasters declared on or after June 10, 1993, the total grant award shall not exceed 15 percent of the total estimated Federal assistance (excluding any associated administrative costs) provided under sections 403, 406, 407, 408, 410, 411, 416, and 601 of the Stafford Act.
- (d) *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document. For purposes of this part, except as noted in Sec. 206.436(g)(1), the State is the grantee.
- (e) *Measure* means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters. The term measure is used interchangeably with the term project in this part.

- (f) *Project* means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters. The term project is used interchangeably with the term measure in this part.
- (g) *Section 409 Hazard Mitigation Plan* is the hazard mitigation plan required under section 409 of the Act as a condition of receiving Federal disaster assistance under Public Law 93-288, as amended. This hazard mitigation plan is the basis for the identification of measures to be funded under the Hazard Mitigation Grant Program.
- (h) *State Administrative Plan for the Hazard Mitigation Grant Program* means the plan developed by the State to describe the procedures for administration of the Hazard Mitigation Grant Program.
- (i) *Subgrant* means an award of financial assistance under a grant by a grantee to an eligible subgrantee.
- (j) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. Subgrantees can be a State agency, local government, private non-profit organization, or Indian tribe as outlined in Sec. 206.434.
- (k) *Supplement* means an amendment to the hazard mitigation application to add or modify one or more mitigation measures.

Sec. 206.432 Federal grant assistance.

- (a) *General.* This section describes the extent of Federal funding available under the State's grant, as well as limitations and special procedures applicable to each.
- (b) *Limitations on Federal expenditures.* The total of Federal assistance under section 404 shall not exceed 15 percent of the total estimated Federal assistance (excluding any associated administrative costs) provided under sections 403, 406, 407, 408, 410, 411, 416, and 601 of the Stafford Act. The estimate of Federal assistance under these sections shall be based on the Regional Director's estimate of all Damage Survey Reports, actual grants, mission assignments, and associated expenses.
- (c) *Cost sharing.* All mitigation measures approved under the State's grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA may contribute up to 75 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared on or after June 10, 1993. FEMA may contribute up to 50 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared before June 10, 1993. The nonfederal share may exceed the Federal share. FEMA will not contribute to costs above the Federally approved estimate.

Sec. 206.433 State responsibilities.

- (a) *Grantee.* The State will be the Grantee to which funds are awarded and will be accountable for the use of those funds. There may be subgrantees within the State government.
- (b) *Priorities.* The State will determine priorities for funding. This determination must be made in conformance with Sec. 206.435.

(c) *Hazard Mitigation Officer.* The State must appoint a Hazard Mitigation Officer, as required under 44 CFR part 206 subpart M, who serves as the responsible individual for all matters related to the Hazard Mitigation Grant Program.

(d) *Administrative plan.* The State must have an approved administrative plan for the Hazard Mitigation Grant Program in conformance with Sec. 206.437.

Sec. 206.434 Eligibility.

(a) *Applicants.* The following are eligible to apply for the Hazard Mitigation Program Grant:

- (1) State and local governments;
- (2) Private non-profit organizations or institutions that own or operate a private non-profit facility as defined in Sec. 206.221(e);
- (3) Indian tribes or authorized tribal organizations and Alaska Native villages or organizations, but not Alaska native corporations with ownership vested in private individuals.

(b) *Minimum project criteria.* To be eligible for the Hazard Mitigation Grant Program, a project must:

- (1) Be in conformance with the hazard mitigation plan developed as a requirement of section 409;
- (2) Have a beneficial impact upon the designated disaster area, whether or not located in the designated area;
- (3) Be in conformance with 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations;
- (4) Solve a problem independently or constitute a functional portion of a solution where there is assurance that the project as a whole will be completed. Projects that merely identify or analyze hazards or problems are not eligible;
- (5) Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster. The grantee must demonstrate this by documenting that the project;
  - (i) Addresses a problem that has been repetitive, or a problem that poses a significant risk to public health and safety if left unsolved,
  - (ii) Will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur. Both costs and benefits will be computed on a net present value basis,
  - (iii) Has been determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options,
  - (iv) Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address,
  - (v) Considers long-term changes to the areas and entities it protects, and has manageable future maintenance and modification requirements.

(c) *Types of projects.* Projects may be of any nature that will result in protection to public or private property. Eligible projects include, but are not limited to:

- (1) Structural hazard control or protection projects;
- (2) Construction activities that will result in protection from hazards;
- (3) Retrofitting of facilities;
- (4) Property acquisition or relocation, as defined in Sec. 206.434(d);
- (5) Development of State or local mitigation standards;
- (6) Development of comprehensive hazard mitigation programs with implementation as an essential component;
- (7) Development or improvement of warning systems.

- (d) *Property acquisition and relocation requirements.* A project involving property acquisition or the relocation of structures and individuals is eligible for assistance only if the applicant enters an agreement with the FEMA Regional Director that provides assurances that:
- (1) The following restrictive covenants shall be conveyed in the deed to any property acquired, accepted, or from which structures are removed (hereafter called in section (d) the property):
    - (i) The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and
    - (ii) No new structure(s) will be built on the property except as indicated below:
      - (A) A public facility that is open on all sides and functionally related to a designated open space or recreational use;
      - (B) A rest room; or
      - (C) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices, which the Director approves in writing before the construction of the structure begins.
    - (iii) After completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any Federal entity or source, and no Federal entity or source will provide such assistance.
  - (2) In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, previous parking lots, and buffer zones.
  - (3) Any structures built on the property according to paragraph (d)(1) of this section, shall be floodproofed or elevated to the Base Flood Elevation plus one foot of freeboard.
- (e) *Inapplicability of the Uniform Relocation Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 does not apply to real property acquisition projects which meet the criteria identified below:
- (1) The project provides for the purchase of property damaged by the major, widespread flooding in the States of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin during 1993;
  - (2) It provides for such purchase solely as a result of such flooding;
  - (3) It is carried out by or through a State or unit of general local government;
  - (4) The purchasing agency (grantee or subgrantee) notifies all potential property owners in writing that it will not use its power of eminent domain to acquire the properties if a voluntary agreement is not reached;
  - (5) The project is being assisted with amounts made available for:
    - (i) Disaster relief by the Federal Emergency Management Agency; or
    - (ii) By other Federal financial assistance programs.
- (f) *Duplication of programs.* Section 404 funds cannot be used as a substitute or replacement fund projects or programs that are available under other Federal authorities, except under limited circumstances in which there are extraordinary threats to lives, public health or safety or improved property.

- (g) *Packaging of programs.* Section 404 funds may be packaged or used in combination with other Federal, State, local, or private funding sources when appropriate to develop a comprehensive mitigation solution, though section 404 funds cannot be used as a match for other Federal funds.

Sec. 206.435 Project identification and selection criteria.

- (a) *Identification.* It is the State's responsibility to identify and select hazard mitigation projects. All funded projects must be consistent with the State's section 409 hazard mitigation plan. Hazard mitigation projects may be identified through the section 409 planning process, or through any other appropriate means. Procedures for the identification, funding, and management of mitigation projects shall be included in the State's administrative plan.
- (b) *Selection.* The State will establish procedures and priorities for the selection of mitigation measures. At a minimum the criteria must be consistent with the criteria stated in Sec. 206.434(b) and include:
- (1) Measures that best fit within an overall plan for development and/or hazard mitigation in the community, disaster area, or State;
  - (2) Measures that, if not taken, will have a severe detrimental impact on the applicant, such as potential loss of life, loss of essential services, damage to critical facilities, or economic hardship on the community;
  - (3) Measures that have the greatest potential impact on reducing future disaster losses;
- (c) *Other considerations.* In addition to the selection criteria noted above, consideration should be given to measures that are designed to accomplish multiple objectives including damage reduction, environmental enhancement, and economic recovery, when appropriate.

Sec. 206.436 Application procedures.

- (a) *General.* This section describes the procedures to be used by the State in submitting an application for funding for hazard mitigation grants. Under the Hazard Mitigation Grant Program the State is the grantee and is responsible for processing subgrants to applicants in accordance with 44 CFR parts 13 and 206.
- (b) *Governor's Authorized Representative.* The Governor's Authorized Representative serves as the grant administrator for all funds provided under the Hazard Mitigation Grant Program. The Governor's Authorized Representative's responsibilities as they pertain to procedures outlined in this section include providing technical advice and assistance to eligible subgrantees, and ensuring that all potential applicants are aware of assistance available and submission of those documents necessary for grant award.
- (c) *Letter of intent to participate.* Within 60 days of the disaster declaration, the State (Governor's Authorized Representative) will notify FEMA in writing of its intent to participate or not participate in the Hazard Mitigation Grant Program. States are also encouraged to submit a hazard mitigation application within this timeframe so that immediate post-disaster opportunities for hazard mitigation are not lost.
- (d) *Hazard mitigation application.* Upon identification of mitigation measures, the State (Governor's Authorized Representative) will submit its section 404 Hazard Mitigation Application to the FEMA Regional Director. The Application will identify one or more

mitigation measures for which funding is requested. The Application must include a Standard Form (SF) 424, Application for Federal Assistance, SF 424D, Assurances for Construction Programs if appropriate, and a narrative statement. The narrative statement will contain any pertinent project management information not included in the State's administrative plan for Hazard Mitigation. The narrative statement will also serve to identify the specific mitigation measures for which funding is requested. Information required for each mitigation measure shall include the following:

- (1) Name of the subgrantee, if any;
  - (2) State or local contact for the measure;
  - (3) Location of the project;
  - (4) Description of the measure;
  - (5) Cost estimate for the measure;
  - (6) Analysis of the measure's cost-effectiveness and substantial risk reduction, consistent with Sec. 206.434(b);
  - (7) Work schedule;
  - (8) Justification for selection;
  - (9) Alternatives considered;
  - (10) Environmental information consistent with 44 CFR part 9, Floodplain Management and Protection of Wetlands, and 44 CFR part 10, Environmental Considerations;
- (e) *Supplements.* The application may be amended as the State and subgrantees develop the section 409 hazard mitigation plan and continue to identify measures to be funded. Amendments to add or modify measures are made by submitting supplements to the application. All supplements to the application for the purpose of identifying new mitigation measures must be submitted to FEMA within 90 days of FEMA approval of the section 409 plan. The Regional Director may grant up to a 90 day extension to this deadline upon receipt of written justification from the State that the extension is warranted. The supplements shall contain all necessary information on the measure as described in paragraph (d) of this section.
- (f) *FEMA approval.* The application and supplement(s) will be submitted to the FEMA Regional Director for approval. FEMA has final approval authority for funding of all projects.
- (g) *Exceptions.* The following are exceptions to the above outlined procedures and time limitations.
- (1) Grant applications. An Indian tribe or authorized tribal organization may submit a SF 424 directly to the Regional Director when assistance is authorized under the Act and a State is unable to assume the responsibilities prescribed in these regulations.
  - (2) Time limitations. The time limitation shown in paragraph (c) of this section may be extended by the Regional Director when justified and requested in writing by the Governor's Authorized Representative.

#### Sec. 206.437 State administrative plan.

- (a) *General.* The State shall develop a plan for the administration of the Hazard Mitigation Grant Program.
- (b) *Minimum criteria.* At a minimum, the State administrative plan must include the items listed below:
- (1) Designation of the State agency will have responsibility for program administration;
  - (2) Identification of the State Hazard Mitigation Officer responsible for all matters related to the Hazard Mitigation Grant Program.

- (3) Determination of staffing requirements and sources of staff necessary for administration of the program;
- (4) Establishment of procedures to:
  - (i) Identify and notify potential applicants (subgrantees) of the availability of the program;
  - (ii) Ensure that potential applicants are provided information on the application process, program eligibility and key deadlines;
  - (iii) Determine applicant eligibility;
  - (iv) Conduct environmental and floodplain management reviews;
  - (v) Establish priorities for selection of mitigation projects;
  - (vi) Process requests for advances of funds and reimbursement;
  - (vii) Monitor and evaluate the progress and completion of the selected projects;
  - (viii) Review and approve cost overruns;
  - (ix) Process appeals;
  - (x) Provide technical assistance as required to subgrantee(s);
  - (xi) Comply with the administrative requirements of 44 CFR parts 13 and 206;
  - (xii) Comply with audit requirements of 44 CFR part 14;
  - (xiii) Provide quarterly progress reports to the Regional Director on approved projects.
- (c) *Format.* The administrative plan is intended to be a brief but substantive plan documenting the State's process for the administration of the Hazard Mitigation Grant Program and management of the section 404 funds. This administrative plan should become a part of the State's overall emergency response or operations plan as a separate annex or chapter.
- (d) *Approval.* The State must submit the administrative plan to the Regional Director for approval. Following each major disaster declaration, the State shall prepare any updates, amendments, or plan revisions required to meet current policy guidance or changes in the administration of the Hazard Mitigation Grant Program. Funds shall not be awarded until the State administrative plan is approved by the FEMA Regional Director.

Sec. 206.438 Project management.

- (a) *General.* The State serving as grantee has primary responsibility for project management and accountability of funds as indicated in 44 CFR part 13. The State is responsible for ensuring that subgrantees meet all program and administrative requirements.
- (b) *Cost overruns.* During the execution of work on an approved mitigation measure the Governor's Authorized Representative may find that actual project costs are exceeding the approved estimates. Cost overruns which can be met without additional Federal funds, or which can be met by offsetting cost underruns on other projects, need not be submitted to the Regional Director for approval, so long as the full scope of work on all affected projects can still be met. For cost overruns which exceed Federal obligated funds and which require additional Federal funds, the Governor's Authorized Representative shall evaluate each cost overrun and shall submit a request with a recommendation to the Regional Director for a determination. The applicant's justification for additional costs and other pertinent material shall accompany the request. The Regional Director shall notify the Governor's Authorized Representative in writing of the determination and process a supplement, if necessary. All requests that are not justified shall be denied by the Governor's Authorized Representative. In no case will the total amount obligated to the State exceed the funding limits set forth in Sec. 206.432(b). Any such problems or circumstances affecting project costs shall be identified through the quarterly progress reports required in paragraph (c) of this section.
- (c) *Progress reports.* The grantee shall submit a quarterly progress report to FEMA indicating the status and completion date for each measure funded. Any problems or circumstances



affecting completion dates, scope of work, or project costs which are expected to result in noncompliance with the approved grant conditions shall be described in the report.

- (d) *Payment of claims.* The Governor's Authorized Representative shall make a claim to the Regional Director for reimbursement of allowable costs for each approved measure. In submitting such claims the Governor's Authorized Representative shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement. The Regional Director shall determine the eligible amount of reimbursement for each claim and approve payment. If a mitigation measure is not completed, and there is not adequate justification for non-completion, no Federal funding will be provided for that measure.
- (e) *Audit requirements.* Uniform audit requirements as set forth in 44 CFR part 14 apply to all grant assistance provided under this subpart. FEMA may elect to conduct a Federal audit on the disaster assistance grant or on any of the subgrants.

#### Sec. 206.439 Allowable costs.

- (a) *General.* General policies for determining allowable costs are established in 44 CFR 13.22. Exceptions to those policies as allowed in 44 CFR 13.4 and 13.6 are explained below.
- (b) Eligible direct costs. The eligible direct costs for administration and management of the program are divided into the following two categories.

##### (1) Statutory administrative costs—

- (i) Grantee. Pursuant to 406(f)(2) of the Stafford Act, an allowance will be provided to the State to cover the extraordinary costs incurred by the State for preparation of applications, quarterly reports, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses, but not including regular time for such employees. The allowance will be based on the following percentages of the total amount of assistance provided (Federal share) for all subgrantees in the State under section 404 of the Stafford Act:
  - (A) For the first \$100,000 of total assistance provided (Federal share), three percent of such assistance.
  - (B) For the next \$900,000, two percent of such assistance.
  - (C) For the next \$4,000,000, one percent of such assistance.
  - (D) For assistance over \$5,000,000, one-half percent of such assistance.
- (ii) Subgrantee. Pursuant to section 406(f)(1) of the Stafford Act, necessary costs of requesting, obtaining, and administering Federal disaster assistance subgrants will be covered by an allowance which is based on the following percentages of total net eligible costs under section 404 of the Stafford Act, for an individual applicant (applicants in this context include State agencies):
  - (A) For the first \$100,000 of net eligible costs, three percent of such costs.
  - (B) For the next \$900,000, two percent of such costs.
  - (C) For the next \$4,000,000, one percent of such costs.
  - (D) For those costs over \$5,000,000, one-half percent of such costs.

##### (2) State management costs—

- (i) Grantee. Except for the items listed in paragraph (b)(1)(i) of this section, other administration costs shall be paid in accordance with 44 CFR 13.22. Costs of State personnel (regular time salaries only) assigned to administer the Hazard Mitigation Grant Program may be eligible when approved by the Regional

Director. Such costs shall be shared in accordance with the cost share provisions of section 404 of the Act. For grantee administrative costs in the Disaster Field Office, the State shall submit a plan for the staffing of the Disaster Field Office within 5 days of the opening of the office. This staffing plan shall be in accordance with the administrative plan requirements of Sec. 206.437. After the close of the Disaster Field Office, costs of State personnel (regular time salaries only) for continuing management of the hazard mitigation grants may be eligible when approved in advance by the Regional Director. The State shall submit a plan for such staffing in advance of the requirement.

(c) Eligible indirect costs—

- (1) Grantee. Indirect costs of administering the disaster program are eligible in accordance with the provisions of 44 CFR part 13 and OMB Circular A-87.
- (2) Subgrantee. No indirect costs of a subgrantee are separately eligible because the percentage allowance in paragraph (b)(1)(ii) of this section necessary costs of requesting, obtaining and administering Federal assistance.



# FACT SHEET

## HAZARD MITIGATION GRANT PROGRAM

Washington State Military Department

Emergency Management Division

Camp Murray, WA 98430

As a result of a presidential declaration of a major disaster, the state of Washington will be administering and helping to fund a Hazard Mitigation Grant Program. This program is authorized by Section 404 of Public Law 93-288, as amended, the Robert T. Stafford Disaster Relief and Emergency Assistance Act. It is one part of the package of federal disaster assistance made available to eligible applicants in declared counties, and is *separate from the Public Assistance repair and restoration program*.

### **PURPOSE OF THE PROGRAM:**

The Hazard Mitigation Grant Program (HMGP) is a program to fund projects that will reduce the effects of hazards and/or vulnerability to future disaster damage. Unlike the Federal Emergency Management Agency's (FEMA's) more familiar public agency disaster assistance program that helps pay for the permanent repair and restoration of existing facilities, the HMGP goes beyond simply fixing the damage. The HMGP will, within the limits of state and federal guidelines, help to fund a wide range of new projects that reduce hazard vulnerability and the potential of damage.

### **ELIGIBLE APPLICANTS:**

State Government  
Local Governments

Registered Nonprofit Organizations with Like-  
Government services and facilities

Special Districts  
Indian Tribes

*(Applicants must be jurisdictions that are participating and in good standing in the National Flood Insurance Program [NFIP] or located in a community that is.)*

### **FUNDING CONSTRAINTS:**

The grants will be made available to eligible applicants on a competitive basis and will be on the following cost share: 75% - Federal 25% - Non federal (applicant and state split). The total amount for the Hazard Mitigation Grant Program is limited. According to the law, FEMA may contribute no more than fifteen percent of the amount that it will spend under the disaster assistance programs. In order to select projects for funding, all proposals will be evaluated against state and federal program criteria. Some of the general criteria are listed below.

### **GRANT PROCESS:**

- State conducts applicant briefings in impacted communities following disaster declaration.
- "Letters of Intent" (LOI) to participate in the program are submitted by eligible applicants.
- Following review of LOI's, HMGP applications are mailed to eligible applicants. Actual deadlines for return of applications to the state vary by disaster.
- Applications are reviewed for eligibility and site visits conducted as required. Applications are then evaluated and scored by a work group of state and local representatives. Local representatives are from outside the declared disaster area(s).
- Projects are then recommended to FEMA for approval and funding based upon score and available funds.

- Upon notification of approval and funding, grant agreement between the state and applicant is developed.
- **TYPES OF PROJECTS THAT CAN BE FUNDED:**

Following are examples of projects the HMGP can be used to fund:

- Structural hazard control, such as debris basins and retention ponds;
- Retrofitting, such as flood proofing and elevating to protect structures from future damage;
- Acquisition and relocation of structures from hazard-prone areas;
- Construction activities that will result in protection from hazards; and
- Development of local hazard reduction plans.

Generally the project should:

- Substantially reduce the risk of future damage, hardship, loss, or suffering from a major disaster;
- Have a beneficial impact in the designated disaster area;
- Conform with federal floodplain, wetland, and environmental regulations;
- Solve a problem, or part of a problem when there is assurance that the whole project will be completed;
- Be cost-effective in that it addresses a problem that is repetitive or that poses a significant risk if left unsolved;
- Contribute substantially to the problem's long term solution;
- Provide cost-effective protection over the expected project life;
- Have manageable future maintenance requirements;
- Be determined to be the most practical, effective, and environmentally sound alternative among the possible options;
- Conform to the goals of the Growth Management Act; and
- Have the documented support of the local community.

Some of the reasons that projects / applications have been determined to be ineligible:

- Project is for operation and maintenance versus disaster related mitigation.
- Project is the responsibility of another federal agency (i.e. U.S. Army Corps of Engineers and the Natural Resources Conservation Service for levees, dikes and berms);
- Project merely identifies or analyzes the hazard (mapping, studies, plans, etc.);
- Project is the result of deferred maintenance versus natural hazard related;
- Project application fails to meet requirements under the National Environmental Policy Act (NEPA) for public involvement in the development of the project;
- Project has an inadequate cost/benefit ratio; and
- When HMGP Project is part of a larger effort, no assurance is made that the whole project will be completed.

Hazard Mitigation Grant Program  
State of Washington Military Department  
Emergency Management Division  
Building 20  
Camp Murray, Washington 98430-5122

**For further information, write us at the above address or call Martin Best, State Hazard Mitigation Officer at (253) 512-7073**

# Hazard Mitigation Grant Program Application

## STEP by STEP

This Step by Step worksheet will walk you through the Hazard Mitigation Grant Program (HMGP) Application. If you still have questions, please do not hesitate to call the HMGP staff of Washington Emergency Management Division at **1-800-562-6108**. If **any** of the sections or questions are left unanswered, the application can be determined **ineligible** and not considered for funding.

### **SECTION 1 APPLICANT DATA**

- *Applicant Name:* The name of your jurisdiction (county, city, etc.)
- *Project Title:* Any name that you chose to distinguish your project. (Please try to avoid the words “Hazard” or “Mitigation”)
- *Federal Tax ID #:* Federal Tax ID of your jurisdiction
- *Basis of Eligibility:* Check only one box that identifies your form of jurisdiction.

### **SECTION 2 APPLICANT’S AGENT INFORMATION**

*Applicant Agent Information:* Please enter the contact information for the person who will be able to act as the contact person between the state of Washington on your jurisdiction. **This should be a person who has been involved in the preparation of the application, is familiar with the proposed project, and can make decisions for the applicant.**

### **SECTION 3 PROJECT (PROPOSED ACTION ALTERNATIVE)**

- A. *Project Title:* This should be the same name as that entered in section 1.
- B. *Project Location:* Legal (Section, Township); and Street Address. This is **not** optional.
- C. *Federal Congressional District and the State Legislative District:* Enter the district numbers covering the project area.
- D. *Project Description and Goal:* Write a paragraph describing the goals of the project and how you intend to accomplish the goals. Remember that a goal is not “To elevate homes” or “To repair a levee.” Goals should be phrased as “To protect lives” or “To protect or remove from threat a certain facility.” (As an example, page 6, B. State Criteria for goals the state has identified in its statewide Hazard Mitigation Reduction Plan.)
- E. *NFIP Community Assistance Visit:* The intent of these questions is to determine that your community is in compliance with the National Flood Insurance Program (NFIP), and that the NFIP State Coordinator has no concerns regarding your jurisdiction’s compliance or eligibility.

## **SECTION 4 PROJECT WORKSHEETS**

*Is this site covered under or connected to a Project Worksheet?* A Project Worksheet is a document prepared by a joint federal, state and local team that conducted damage assessments in the community, following the disaster, in order to determine the repair and restoration work necessary to return public facilities to pre-disaster condition. If you do not have one, check "NO" and move on to Section 5. If you check "YES", provide the Project Worksheet number and the reason mitigation was not included as part of the Project Worksheet.

## **SECTION 5 SELECTION OF BEST PROJECT ALTERNATIVE**

*Selection of Best Project Alternative:* You will need to describe why and how the proposed action alternative was selected over all of the other alternatives reviewed, and why it is the best solution to your hazard problem.

### **PARTS A, B and C**

The narrative sections must be thoroughly completed. There are several reviewers who will read this as well as many other applications. It is in your best interest to spend some time developing a comprehensive 'word picture' of the hazard, the proposed project, and how it solves the problem. The reviewers will also need to know that you have thought through and considered every viable option to meet your goals. If you feel that there is only one option available, then consider what you would do if you had the money available but could not do your first option. Also, consider whether the costs of the project – after determining all of the benefits of the project – will still outweigh the cost of doing nothing.

#### **1. *Description of the Alternative:***

***Proposed Action Alternative:*** Describe the project that you are wanting to accomplish. Be as specific as possible, providing all components and actions and amount of time needed to complete the project. How will it work? What does it do? How does it solve the problem? The description MUST be thorough enough to allow an adequate evaluation of it, the benefits, and the impacts.

***Second Alternative:*** Describe an alternate project that could be developed if the Proposed Action Alternative could not be developed, funded, or was not approved. Be as specific as possible, providing all components and actions and amount of time needed to complete the project.

***No Action Alternative:*** Describe what would reasonably be expected if you did nothing.

#### **2. *Project Costs of this Alternative:*** What is the cost of each alternative?

3. ***Benefits of this Alternative:*** What is the quantifiable benefit of each alternative? (In particular, what is the quantifiable financial benefit to the federal, state, and local governments.) “Quantifiable benefits” are avoided future costs. e.g., The project will protect the area from this amount of future damages.
4. ***Description of the Affected Environment:*** Describe the area each alternative will affect, including; wildlife, riverine, plant life and population density. Is it developed, undeveloped; commercial, residential; rural; forest; etc. What does the area look like?
5. ***Briefly describe any positive environmental impacts of the project:*** Describe how each alternative will positively affect the surrounding environment.
6. ***Check any potential adverse impacts that apply.*** Check as many boxes as may apply to that particular project. This section is not a scored part of the application and it is best to be forthright with any outstanding issues. As an example, a jurisdiction that is aware that its proposed project will be controversial, but is insistent on this project, could ultimately lose out, as the public opposition could halt the project, and the jurisdiction would be unable to go back and apply for another project.
7. ***Is there potential for degradation of already poor environmental conditions?*** Check Yes or No
8. ***Is there potential to violate any Federal, State, local, or tribal law or code to protect the environment?*** Check Yes or No. This can include any resolution by any governing entity.
9. ***Briefly describe any of the areas noted in questions 6, 7, or 8.*** Provide enough detail to illustrate that the benefits of the project outweigh all negative impacts.

## **D. ELIGIBILITY REVIEW FOR THE PROPOSED ACTION ALTERNATIVE**

### ***1. Acquisition and Relocation Projects only:***

This section is only for those projects that involve the purchase and/or removal of homes and structures.

- a. ***Number of homes to be acquired and/or demolished.*** Include a photo and street address of each home. This is **not** optional. For any homes over 50 years or older, include a good-quality photo of each side view of the structure. (Not a Polaroid.)
- b. ***Number of homes to be relocated.*** (*Homes must be relocated to areas outside the 100-year floodplain.*)
- c. ***Give the actual number of homes included in the project that have renters.***

- d. *Amount of Relocation Assistance required.* Federal regulations require that under certain conditions you may be required to provide relocation assistance to renters of homes being acquired or relocated. Refer to the “Relocation Assistance Worksheet” (**Appendix 7**) to determine the amount of assistance that will be required.
- e. *Determination of **Duplication of Benefits (DOB)**.* Have any of the property owners/renters received disaster benefits from the National Flood Insurance Program or other FEMA disaster programs?

**Note:** *Federal funds cannot be used as a match for this program. If individuals have received any other benefits, such as flood insurance or from the Individual Family Grant (IFG) program, those amounts received will be deducted from the final appraised value of the home if no repairs have been made. If repairs have been made, the homeowner must provide copies of receipts.*

f. *Determining Fair Market Values of Property*

1. Please provide a list of the names and addresses of potential buyout/relocation participants. Addresses should reflect the property to be acquired, not mailing addresses.
2. Include a property specific list of preliminary Fair Market Values (FMV) and/or Relocation costs.
3. Describe how initial property values were determined. Did you use assessed values? If so, did you consider differences between assessment and appraisal in that area of homes? Or did you use recent appraisals?

- g. *Please include a plat map indicating locations of homes to be acquired/relocated.* Maps may be attached to the end of the application.

Fill in the chart with all of the requested information for each home that will probably be included in the project, even those you may consider as alternates.

## 2. Review for All Types of Projects

- a. *HISTORIC & ARCHAEOLOGICAL RESOURCES (Public Law 96-515, Sect. 106)*  
*It is not expected that you will know all of the following answers. However, you must identify if there is a possibility that any of the following conditions exist.*

- (1) *Are there any potential archaeologically-significant resources on the site?* Is the home-site in the vicinity of an area of known past cultural activities, such as an indigenous settlement or migration route, or a burial site.
- (2) *Are there any potential historically-significant structures in the project area?* For every structure 50 years and older, a determination by FEMA must be made whether it has the *potential* to be historically significant. **Good-quality photographs of all side of each structure 50 years and older must be submitted with the application** to reduce the timeline of review legally required by the State Historic & Preservation Officer.



- (3) *For each potential archaeologically or historically-significant structure, provide the date/age of the building and whether it has been remodeled or added onto. Also provide any other historical knowledge of the site. The homeowner may have some knowledge of the history; also the Assessor's Office will have some data.*

- b. *Are there concentrations of minority or low income populations in or near the project area? (Executive Order 12898)*

Check **Yes** or **No**.

*Will they be impacted by this project?*

Check **Yes** or **No**.

Two examples of "impacts:"

- (1) Displacement, regardless of how many people displaced, either from employment or from residence, whether temporary or not.
- (2) Removal of a structure, such as a bridge or a road, that provides an alternate route for the community's ingress and egress. This example could be either a beneficial impact or an adverse impact. If there will be any adverse impact(s), discuss how the project will provide sufficient benefit to minority or low-income populations that will outweigh the described adverse impact.

- c. **FLOODPLAIN MANAGEMENT & WETLAND PROTECTION**

- (1) *Is the project located in or does it impact a floodplain?* Check **Yes** or **No**.

- (2) *Is the project located in or does it impact a wetland?* Check **Yes** or **No**.

- (3) *Using the 8 step Process found at the end of the application, please indicate compliance with Executive Orders 11988 (Flood Plain Management) and 11990 (Wetland Protection). Read the checklist and detail your compliance with E.O. 11988 and 11990. This is **not** optional.*

- (4) *Describe any outstanding issues of compliance with Executive Orders 11988 and 11990. Indicate if there are any problems with the procedures outlined in the checklist, such as a step not yet completed.*

- d. *Are there any toxic or hazardous substances in the project area? (Including underground storage tanks, above ground storage tanks, septic systems or other potential contaminants). A waiver of liability form will be required for contamination from such tanks prior to closing.* Check **Yes** or **No**.

- e. *Please include a plat map indicating location(s) of project area.*

## E. NOTIFICATION and PUBLIC INVOLVEMENT

1. The National Environmental Policy Act (NEPA) requires public notification and involvement in the development of alternatives and selection of the proposed action alternative. Describe and **provide documentation** (examples: notices, meeting minutes, flyers) of the ***recent public involvement*** (since the disaster was declared) in the alternative development and selection process, especially those individuals that this project may impact. Projects that do not have this documentation before submittal of the application **WILL BE INELIGIBLE**.

Provide a description of recent public meetings with the community regarding this project, especially with those individuals who will be directly impacted. Copies of newspaper announcements; meeting minutes; attendee sign up sheets; or similar documentation; can be referenced and attached to the end of the application.

Please NOTE: Comprehensive flood and/or disaster plans that include this project, but were prepared previously to the recent disaster event, are helpful but not adequate in themselves. Property owners have been known to change their minds.

2. Please provide documentation of any communications your agency has had with other federal, state, local, or tribal agencies regarding the planning and impact of alternatives. Please provide the name of the agency and contact person, phone number, and any other documentation you may have. (Attach a separate sheet if needed). Jurisdictions that fail to communicate with other potentially impacted jurisdictions (i.e. tribes, counties or cities) **WILL BE INELIGIBLE**.

**EXAMPLES:** 1) If your project will require an HPA from Washington Department of Fish & Wildlife, you must provide documentation that WDFW has initially reviewed the proposal and has no issues, at the time, that will prevent it from issuing an HPA for the project. 2) If your project will impact DNR, or tribal trust or other non-applicant lands, you must provide documentation from the impacted property owner that an easement, or other conveyance, will be provided.

Provide the agency, contact person and phone number of any communications you have had regarding this project. Simply mailing a letter to an affected agency or jurisdiction is not adequate inter-agency communication. Attach letters to the end of the application. It is especially important to identify contact with neighboring communities that may be affected by this project.

## F. AFFECT OF NON-SELECTION

*If a Hazard Mitigation grant is not provided, or delayed, what impact will this have on the timing of your project? What is the affect on your ability to use alternate funds committed to this project?*

Explain if you will continue with this project or delay it in any way if the funding is not acquired through the Hazard Mitigation Grant Program. Your answer could effect the decision of whether to fund it.

## **SECTION 6. STATE AND FEDERAL ELIGIBILITY**

### **A. APPLICANT'S NARRATIVE RESPONSE**

These are not meant to be true/false questions. Answer in essay form HOW your project will achieve these goals. Each question receives a point score to evaluate it with other projects.

**Note: Not every question will apply to each project application.**

1. *Does your jurisdiction have a local Hazard Reduction Plan? If you have a plan, is this project identified in it?*

Does your community have a flood hazard reduction plan, or similar document. Many jurisdictions have Capital Improvement Project (CIP) plans, but these do not address the specific issues of hazard reduction. If your jurisdiction has a hazard plan, please show if, and where, this project is identified in you plan.

2. *Describe how this project will protect lives and reduce public risk. (s)(f)*

Explain how this project will accomplish these goals. (i.e. "It will remove people from flood water risks.")

3. *Describe how this project will reduce the level of hazard damage vulnerability in existing structures and developed property. (s)(f)*

Explain how this project will accomplish these goals. (i.e. "It will move the existing structures away from or above the 100 year floodplain.")

4. *Describe how this project will reduce the number of vulnerable structures through acquisition or relocation. Describe your jurisdiction's plans for the acquired property (open space, etc.) (s)*

Explain how this project will accomplish these goals. (i.e. "It will remove two structures from the floodplain through acquisition and demolition of the structure. The area will be left as undeveloped scenic area in perpetuity.")

5. *Describe how this project will avoid inappropriate future development in areas that are vulnerable to the hazard damage. (s)*

Explain how this project will accomplish these goals. (i.e. "The county will own this property," or "local ordinances have been developed to limit development in this area.")

6. *Describe how the project will solve a problem independently, or functions as a beneficial part of an overall solution. (f) (If part of a larger project, assurance must be provided with the application that the overall project will be completed.)*

Explain how this project will accomplish these goals. (i.e. "This project removes repetitively damaged structures from the floodplain.")

7. *Describe how this project will provide a cooperative, inter-jurisdictional/inter-agency solution to the problem. (s)*

Explain how this project will accomplish these goals. (i.e. "This project has been reviewed and is supported by the downstream communities. Letters of support and comments are attached.")

8. *Demonstrate that this project will provide a long-term mitigation solution (not a short-term fix) in locations that experience repetitive hazard damage. (s)(f)*

Explain how this project will accomplish these goals. (i.e. "This project permanently removes structures from the floodplain." "This project will last for at least 100 years without rebuilding.") Please note - dredging is not a long term solution.

9. *Show how this project will address emerging hazard damage issues (such as the damage caused by storm water runoff at build-out densities, trees in right-of-ways, etc.). (s)(f)*

Explain how this project will accomplish these goals. (i.e. "This project will prevent future development in this area.")

10. *Describe how this project will restore or protect natural resource, recreational, open space, or other environmental values. (s)*

Explain how this project will accomplish these goals. (i.e. "This project will remove residential structures from the floodplain and allow the restoration of the floodplain to a natural environment enhancing wildlife habitat.")

11. *Show your jurisdiction's development and carrying out of comprehensive programs, standards, and regulations that reduce future hazard damage. (s)*

Explain how this project will accomplish these goals. (i.e. "Our jurisdiction has developed a flood hazard reduction plan to identify and offer solutions to high risk flood hazards.")

12. *Describe how your jurisdiction is increasing public awareness of hazards, preventive measures, and emergency responses to DISASTERS. (s)*

Explain how this project will accomplish these goals. (i.e. "Our jurisdiction has developed a local flood plan and is working with the National Flood Insurance Program's Community Rating System developing educational workshops and flood planning.")

13. *Describe how the project, upon completion, will have affordable operation and maintenance costs that the applicant jurisdiction is committed to support. (f)*

Explain how this project will accomplish these goals. (i.e. "This project will require limited maintenance for this area because the area will be left as an open space. Should the Parks Department develop a trail system, the county will be able to provide the estimated \$2,000 in annual maintenance costs.")

14. *Describe how the proposed project improves your jurisdiction's ability to protect its critical areas according to the Growth Management Act? (s)*

Even if your community does not participate in the broad initiative of the Growth Management Act (GMA), communities are required to identify CRITICAL AREAs within the community. Explain how this project will accomplish or support these goals.

***The following budget information applies to your Proposed Action Alternative only.***

## **SECTION 7. PROJECT BUDGET AND FUNDING SOURCES.**

- A. *Estimated Project Costs:*** Detail all of the expenses (except administrative) needed to complete the proposed HMGP project.
- B. *Applicant Funding Source(s).*** Please identify the source(s) of your share for the project. Failure to identify the minimum local share (and any additional funds required if there is a funding cap) will make the application **INELIGIBLE**.

Detail the sources of funding for your jurisdiction's share of the project. FEMA only contributes 75% of the costs of a project. In most disasters, the state of Washington will contribute up to ½ of the non-federal share of the project costs (normally 12 ½ percent of the costs).

- C. *Non-Applicant (Outside Sources) Project Funds.***

1. *Sometimes HMGP projects are part of a larger project, or a community is seeking assistance to meet their HMGP match requirements. Please identify other funding you have **applied** for and the status of that application or award (verified in writing whenever possible). If you have not applied for other funding sources, please explain why.*

What other funding have you applied for? (Public Works Trust Fund; FCAAP; CDBG; etc.). What is the status of your jurisdiction's application? Do NOT restate the HMGP funds for this project.

2. *If the HMGP is part of a larger project, or if you have outside funds committed as part of your local match, please identify these funds, **other than Hazard Mitigation Grant** funds. We realize that applicants often fund projects in phases and that a Hazard Mitigation Grant may fund just one phase or aspect of the*

*project. Also, applicants often package funds from other grant or loan programs to provide complete funding of the entire project.*

What **other** funding has been committed to this project? Do not restate the HMGP funds for this project.

**Note:** Federal funds (except CDBG) cannot be used as a match for HMGP funds and HMGP funds cannot be used as a match for other federal programs (NRCS, Corps of Engineers, etc.)

## **SECTION 8. PROJECT COST-EFFECTIVENESS.**

### **A. Cost-to-Benefit Narrative**

*Please discuss each of the following issues:*

1. *What is the project life in years? How long is the mitigation project expected to last? (100 years for acquisitions, 20 - 40 years for other structural solutions)*

2. *Describe the life-cycle cost of the proposed project. [COSTS]*

What are the operation and maintenance costs over the life of the project.

3. *What is the real estate value of the property that the proposed project will protect?*

Detail the real estate value of the property that this project will protect, either using assessments, appraisals, or some other method to establish the value of the property.

4. *What are the specific documented damage amounts during the recent event that you can attribute to the lack of this project?*

Provide actual (verifiable) damage dollar amounts from the recent event. Describe how much damage your jurisdiction experienced during the recent event (flood, ice storm, etc.) that you can illustrate this project will reduce or eliminate. *NOTE: Failure to provide documentable figures, such as damages from property owners, public works department, or other methodologies, may cause your project to not meet minimum cost/benefit requirements, and therefore be INELIGIBLE.*

5. *What are the specific documented damage amounts during past events that you can attribute to the lack of this project? (How often do they occur?)*

Provide actual (verifiable) dollar damage amounts from past events and when those costs occurred. Describe how much damage your jurisdiction has historically experienced during the past disaster events (flood, ice storm, etc.)

6. *What is the dollar amount (estimated) of damage and associated costs that you would prevent as a direct result of the proposed project over its useful life? [BENEFITS]*

Provide best estimates of future dollar damage amounts that could be expected if this project is not completed. Explain how you arrived at these estimates.

The following two questions relate to indirect costs/benefits. Questions 7 and 8 do not require responses. In fact a project site may have no subsequent negative impacts associated with it. However, for those projects that can document subsequent negative impacts, it may improve the cost/benefit ratio. Because these responses are estimates, and may not be actual dollars, reasonableness is stressed. If the figures you submit are 'out of the ordinary,' or excessive, they will not be included in the cost/benefit analysis. Subsequent negative impacts cannot be used in place of actual, direct damages caused by the disaster. This discussion should only be a supplement to the actual dollar amount of damages.

7. What are the estimated damages associated with subsequent negative impacts, using a unit of assigned value. This could include several impacts, such as estimated future loss of revenue (unit could be per day or per week, for example); loss of property values (unit could be a percentage per event). e.g., "Road closed, with no access, for 5 days. Estimated costs to neighborhood for lost wages, etc., is \$3570 a day x 5 days = \$17,850.00."
8. Identify displacement costs, including costs for lodging and meals; evacuation costs; charges by Red Cross or other emergency services, etc.
9. For acquisitions involving landslides – provide the "enclosed, heated square footage" and the estimated fair market value for each home to be acquired.

## **B. Cost-To-Benefit Data: BENEFIT/COST INPUT WORKSHEET**

This is data that should be the same as information given in the narrative section.

1. *Total project costs* - How much is it going to cost?
2. *Project life in years* - How long is it going to last?
3. *Effectiveness of Project* – Using a 100-year event (flood-related or not), what ratio of protection will this project provide? e.g., Will it provide 100 percent or 80 percent protection in a 100-year event? The ratio should be to a 100-year event.
4. *Repair costs to Pre-disaster condition* – What is the cost to just repair the project to pre-disaster condition without any mitigation? This does not include staff costs or flood-fighting. Use only the actual repair costs that this project will prevent.
5. *Annual Maintenance Costs* - How much will it cost to maintain this project each year?
6. *Total Costs of all Past Disasters* – What are the total historical documented damages associated with this project site?
7. *Total Displacement Costs* – If homeowners or renters have had to stay away from their homes for any length of time, how much did it cost?
8. *Event Frequency* – What is the established event frequency, such as a 100-year flood, 25-year flood, 15-year windstorm. Not "Three floods in six years." This is not how often it has occurred, but the assigned and official event frequency.

*C. Frequency of disaster-related damages in the area protected by the project:*

Give the estimated damages that can be expected in a particular event frequency. – In a ten year event how much damage would you expect to occur? Then use other event frequencies (25-year, 50-year, etc). Change the event frequencies to meet your jurisdiction's events. This is not how often the damage occurs, but the assigned event frequency. e.g, At the site a 25-year event will cause \$25,000 in damage, but a 50-year event will cause \$100,000 damage.

**SECTION 9. ESTIMATED SCHEDULE FOR PROJECT COMPLETION.**

Give your best estimate on when each phase of the project can be completed. We have provided our best estimate on when contracts may be signed to begin projects. (This is only an estimate. HMGP cannot predict FEMA's timetable to approve funding of projects.)

**SECTION 10. ENVIRONMENTAL DATA CHECKLIST**

Please check each section. HMGP does not score this section but uses it to identify the environmental complexities of each project and to assist FEMA in the development of the environmental review document required. Provide a response, even if it is N/A.

**SECTION 11. CERTIFICATIONS AND ASSURANCES**

Please read and sign.

**SECTION 12. RESOLUTION DESIGNATING AN APPLICANT'S AGENT**

An agent must be designated by your jurisdiction to sign contracts and work with Emergency Management Division on the jurisdiction's behalf. You may use the attached form or any other method your jurisdiction employs. A jurisdiction's CEO cannot appoint themselves as applicant agent. Each event needs a new and specific resolution or letter for that disaster.









**WASHINGTON MILITARY DEPARTMENT**  
**Emergency Management Division**

***Hazard Mitigation Grant Program***  
**Applicant Appeal Process - State Level**

**I. CRITERIA FOR APPEAL**

Jurisdictions may appeal a decision of the Mitigation Grant Review Committee based on the following:

- A. Failure by the Committee to follow established processes as outlined in the state's Hazard Mitigation Administration Plan and/or the processes as outlined herein.
- B. Arbitrary or capricious decisions by the Committee.

**II. APPEAL PROCESS AND TIME-LINE**

All jurisdictions will be provided formal notification of their recommended/non-recommended status which will be forwarded to the Military Department, EMD Director.

- A. Those jurisdictions initially recommended will be notified if there is, or is not, an appeal of the Committee's recommendations being processed.
  - An appeal will delay all recommendations being forwarded to the EMD Director, until the appeal process is complete.
  - A successful appeal may result in a re-ranking of the recommended projects and could affect funding for any particular project.
- B. Those projects not being recommended by the Committee will be provided the specific non-recommendation. Should an applicant wish to appeal the non-recommendation of their project, they must:
  - Within **15** days of receipt of formal notice of non-recommendation, respond in writing to the specific items causing non-recommendation, with full justification or clarification to the Mitigation Grant Review Committee.
  - The Committee will review the appeal, make such additional investigations as necessary, and forward the appeal with a written recommendation to the Director of Emergency Management.
- C. The Emergency Management Division Director will review the material submitted and make any additional investigations as deemed appropriate.
  - The jurisdiction will be notified of the Director's decision within ten days following the Department's receipt of the formal "Appeal of Determination" packet.

- D. If the Director of the Emergency Management Division denies the appeal:
- The original list of recommendations by the Committee will be forwarded to The Adjutant General, State Military Department, with a copy of the appeal results.
  - All applicants will be notified of the appeal recommendation results and the appeal process has been completed.
- E. If the Director finds in favor of the appeal, the Mitigation Grant Review Committee will be instructed to take appropriate implementing actions, which include:
- The entire listing of recommendations will be re-ranked.
  - Affected jurisdictions will be notified and not be allowed to appeal this decision.
  - A revised recommendation packet will be forwarded to The Adjutant General, State Military Department, with appropriate documentation and explanation of appeal results.
- F. All decisions of The Adjutant General, State Military Department, are final.

### III. CRITERIA FOR SELECTION

The project must meet federal eligibility criteria referenced in CFR 44, 206.434. To be eligible, the project must demonstrate that it:

- A. Conforms with the State Hazard Damage Reduction Plan (409).
- B. Has a beneficial impact on the disaster-affected area.
- C. Conforms with Executive Order 11988 on Floodplain Management, and Executive Order 11990 on Protection of Wetlands. (See CFR 44, Part 9 and/or Part 10.)
- D. Solves a problem independently or will be a functional part of a solution with assurance that the whole project will be completed. (Projects that merely identify or analyze the hazard or problem are **not eligible**.)
- E. Will be cost-effective and **substantially** reduce risk of future damage, hardship, loss, or suffering. This must be demonstrated by documenting that the project:
1. Addresses a repetitive problem, or one that poses a **significant** risk to public health and safety if left unsolved.
  2. Will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur.
  3. Has been determined to be the most practical, effective, and environmentally-sound alternative after consideration of a **range** of options.
  4. Contributes, to the extent practicable, a long-term solution.

5. Considers long-term changes to the areas and entities it protects, and has manageable future maintenance and modification requirements.

#### IV. CRITERIA FOR NON-SELECTION

These are the established criteria for **NON-SELECTION** of applications for recommendation to the Director of Emergency Management and the Federal Emergency Management Agency for funding:

- A. Application and/or supporting materials were not received by the deadline.
- B. Grant request exceeds established funding limits.
- C. Project does not meet eligibility criteria in CFR 44, 206.434, or fails to meet scoring minimums based upon eligibility criteria. (Please See III above.)
- D. Project does not meet National Environmental Policy Act requirements for early, documented public input in the selection of alternatives.
- E. Projects that merely identify or analyze the hazard or problem (studies) are not eligible.
- F. Hazard Mitigation (Section 404) funds **cannot** be used as a **substitute** or **replacement** to fund projects or programs that are available under other federal authorities, except when there are limited circumstances such as extraordinary threats to lives, public health or safety, or improved property.
- G. Projects are not recommended by the Mitigation Review Committee. Applications are scored by a committee of up to five individuals from state and/or local governments. Composite scores are used to assign ranking order. The Committee then derives their list of projects for recommendation by a combination of:
  1. Composite score
  2. Geographical mix
  3. Funding amounts per community
  4. Other available sources of funding
  5. Grant funds available
  6. Number of grants currently active (A jurisdiction may have no more than four (4) active grant projects.)
  7. Past HMGP participation and results



Excerpts from:

Robert T. Stafford  
Disaster Relief and  
Emergency Assistance Act,  
P.L. 93-288 as amended



Reprinted by the  
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May 1995

## HAZARD MITIGATION (42 U.S.C. '5170,c)

Sec. 404.(a) In General. The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 409 and shall be subject to approval by the President. The total of contributions under this section for a major disaster shall not exceed 15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

(b) Property Acquisition and Relocation Assistance.

(1) General Authority. In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

(2) Terms and Conditions. An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if -

(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Director that provides assurances that -

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for use that is compatible with open space, recreational, or wetlands management practices;

(ii) no new structures will be erected on property acquired, accepted or from which a structure was removed, under the acquisition or relocation program other than -

(I) a public facility that is open on all sides and functionally related to a designated open space;

(II) a rest room; or

(III) a structure that a Director approves in writing before the commencement of construction of the structure; and

(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program -



(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

(3) Statutory Construction. Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.

#### MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES (42 U.S.C. '5176)

Sec. 409. As a condition of any disaster loan or grant made under the provisions of this Act the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence or compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials or general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.



# GUIDELINES FOR ACQUISITIONS AND RELOCATIONS

*The following “Guidelines for Acquisition and Relocation Projects” is from the January 1995 FEMA document and policy guidelines developed by FEMA and adapted for use within Washington State. It does not supercede or replace local, state, or federal laws and regulations relating to property transactions or environmental regulations. ed.*

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## FEMA HAZARD MITIGATION GRANT PROGRAM GUIDELINES FOR ACQUISITION AND RELOCATION PROJECTS (Original publication date - January 1995)



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## **A. INTRODUCTION**

Through the HMGP, the state and FEMA can provide funding to an eligible applicant for the purpose of acquiring property in hazardous areas and/or relocating structures to new sites. To be eligible for HMGP assistance, this type of project should meet the following minimum requirements (in addition to the standard HMGP eligibility requirements found at 44 CFR §206 Subpart N):

1. The community must inform prospective participants in writing that it will not use its condemnation authority to acquire their property should negotiations fail and property owners must voluntarily elect to participate in the program;
2. The deed to the property acquired (or from which structures will be removed) will carry a restriction that the property will be maintained as open space in perpetuity, and that no future federal disaster assistance will be made available to it; and
3. Any relocated structures will be placed on sites located outside of the 100-year floodplain and any regulatory erosion zones, and in conformance with any other applicable state or local land use restrictions. Critical facilities must be located outside the 500-year floodplain.

Generally, HMGP funded property acquisition projects consist of a community purchasing flood-damaged homes and either demolishing them or physically moving them to a new site outside of the floodplain. The purchased property is then maintained for open space purposes. While some communities may elect to develop a new site outside of the floodplain for participating residents to move to, FEMA encourages communities to opt for the simpler acquisition and structure removal model. These projects require only minimal environmental review, are considerably less expensive, and allow homeowners to determine where to relocate. This guidance is generally aimed at acquisition/structure removal projects.

## **B. NON-PARTICIPATING COMMUNITIES**

HMGP grants for acquisition of flood-prone property cannot be made available in certain communities which do not participate in the National Flood Insurance Program (NFIP). Federal grants cannot be given for acquisition or construction purposes if the site is located in a designated special flood hazard area which has been identified by the Director for at least one year and the community is not participating in the NFIP. However, if the community qualifies for and enters the NFIP during the six-month period following the major disaster declaration, a grant application may be considered by the state. FEMA recommends that the states give priority to those communities that were participating in good standing in the NFIP before the disaster and are complying with NFIP requirements during reconstruction.

### C. ENVIRONMENTAL REVIEW

1. Type of documentation required to comply with the National Environmental Policy Act (NEPA), FEMA must conduct an environmental review of the proposed acquisition or relocation. Depending on the scope of the project, the review is documented in one of three forms:
  - a. A memorandum to the file indicating that the project is categorically excluded;
  - b. An Environmental Assessment (EA); or
  - c. An Environmental Impact Statement (EIS).

FEMA has published an amendment to its categorical exclusions (44 CFR §10) which excludes projects involving only the acquisition of properties and the demolition of structures from the need to perform an environmental assessment. Projects meeting this exclusion will generally require only a memorandum to the file, signed by the Regional Director, indicating the applicability of the categorical exclusion and compliance with other laws, such as the National Historic Preservation Act, the Endangered Species Act, and the Clean Water Act. FEMA and the state must coordinate with the State Historic Preservation Officer on all acquisition projects to ensure compliance with the Section 106 process. Projects involving actual structure relocations or new site developments will require an EA or EIS.

In addition to the elements identified at 44 CFR §10.9 and 10.10, the environmental review document should contain descriptions of how the project meets the minimum requirements listed above, how the project was coordinated with other programs and agencies, and what the disposition of the property and structures will be. If the project involves the physical relocation of a structure to a new site, the environmental review should discuss the impacts to both the old site and the new one.

2. Coordination with Other Federal Agencies. If other agencies or programs are also contributing to the acquisition or relocation of properties in the same area, one joint environmental review should be conducted. FEMA Mitigation staff should coordinate closely with the other involved program managers, especially those within FEMA. If several agencies are involved and the project scope warrants formal coordination, a lead agency should be designated in accordance with 44 CFR §10.7.
3. Hazardous Materials Concerns. If a community is considering purchasing commercial or agricultural property, it should ensure that the owner provides information identifying what, if any, hazardous materials are on the property. The community should require the owner to remove hazardous materials and containers, before purchasing such properties. FEMA funds should not be used to purchase contaminated property. The owner must certify that any contamination has been cleaned up to meet federal and state standards before the community can purchase any interest (including an easement for development rights) in the property. When the community purchases an easement for development rights only, the seller must agree to indemnify FEMA and the community for any liability arising from contamination of the property.



**D. COORDINATION WITH OTHER PROGRAMS/AGENCIES.** Agencies and programs involved should coordinate joint acquisition or relocation projects to the greatest extent possible. When funds from other federal sources are used to match HMGP grants, both programs', requirements apply to the whole project. While FEMA is not responsible for ensuring this compliance for other agencies, coordination with the local program representatives is essential. The state, as grantee, is responsible for coordinating the various programs available within the state.

Because HMGP is a very flexible program in terms of specific procedures, it is beneficial to coordinate approaches and schedules with other programs involved. The objective should be to make the process as simple and consistent for the applicants and homeowners as possible.

**E. PROPERTY APPRAISAL AND NEGOTIATION.** For each property identified for acquisition, the grantee or subgrantee should establish and document a fair market value. The value must be derived from a reasonable methodology that has been consistently applied throughout the community, such as independent appraisals, opinions of value, or a formula based on tax assessments. FEMA should coordinate with the state and the subgrantee (community) in their determination of whether the valuation should be based on pre- or post-flood market value. However, all appraisals in a given community (i.e. HMGP project area) should be based on the same terms.

FEMA should ensure that all property owners are treated fairly and are offered an equitable package of benefits. As detailed below in Section I, "Duplication of Benefits," the subgrantee must make certain deductions from the established fair market value before making a purchase offer. However, FEMA offers the state the option of providing a credit to property owners with flood insurance. In this case, the subgrantee would allow the property owner to retain an amount from the flood insurance claim settlement equal to up to 5 years of flood insurance premiums actually paid by the current property owner for a National Flood Insurance Policy for structure coverage. (Normally the subgrantee must deduct the entire flood insurance settlement awarded for structure repair from the purchase offer.) The amount retained would be in no case greater than the amount paid as claim settlement for building damage to the property; nor would it be more than premiums actually paid by the property owner for structure (as opposed to contents) coverage for the preceding five year period (See figure 1).

The acquiring entity (subgrantee) must inform each property owner of what it considers to be the fair market value of the property. The subgrantee may wish to set a time limit with the property owner for the validity of a purchase offer. If several different entities or programs are acquiring property in the same area, property owners may find it confusing if different offers are made to area owners at different times. To avoid any negotiation difficulties or confusion, the local community should coordinate the release of appraisal information and purchase offers to property owners for the various programs. If the current property owner purchased the flood-damaged property after the disaster declaration, then the community cannot offer the owner more than the post-flood fair market value, (i.e. the amount paid by the current owner for the damaged property.)

The subgrantee must conduct a title search for each property to ensure that there are no mortgages or liens outstanding at the time of sale. The grant agreement should include this stipulation.

## **F. URA AND RELOCATION ASSISTANCE**

### **1. Applicability of the URA**

The Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act mandates that property owners receive just compensation for their property and relocation assistance from federal acquisition programs. The URA also sets specific time limits and places other requirements on the acquiring agency. There are exceptions to the provisions of the URA, however, for voluntary transactions that meet the specific criteria found at 49 CFR §24.101 (a) - This exception requires that the acquiring agency (subgrantee) inform the property owner in writing:

- a. That it will not use its power of condemnation to acquire the property in the event negotiations fail; and
- b. What it believes to be the fair market value of the property.

Although HMGP projects must meet the above criteria for voluntary programs, thus allowing an exception to URA provisions, FEMA recommends that the property owner and the subgrantee sign a Voluntary Transaction Agreement (sample attached). This ensures that the property owner understands that they are not automatically eligible for additional relocation benefits beyond the purchase price of the property.

### **2. Mandatory URA Assistance for Displaced Tenants.**

Tenants who must relocate as a result of acquisition of their pre-flood housing are entitled to URA relocation benefits (such as moving expenses, replacement housing rental payments, and relocation assistance advisory services), *regardless* of the owner's voluntary participation. For details on these requirements, see 49 CFR §24, Subpart C.

Tenant(s) displaced from a dwelling due to a FEMA funded acquisition project are entitled to rental assistance if:

- a. The tenant occupied the displacement dwelling for the 90 days preceding the negotiations for acquisition of the property; and
- b. The tenant rents or purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date he or she moves out of the original dwelling.

The amount of assistance the community must pay to the tenant is derived from 49 CFR § 24, Subpart E. The URA states that an eligible displaced tenant is entitled to:

- a. Reasonable out-of-pocket moving expenses; and
- b. Compensation for a reasonable increase in rent and utility costs incurred in connection with the relocation.

Compensation for rent increase shall be 42 times the amount which is obtained by subtracting the “*base monthly rent*” for the displacement dwelling from the monthly rent and average monthly cost of utilities for a comparable replacement dwelling, or the decent, safe, and sanitary replacement dwelling now occupied by the displaced person. The rental increase payment may not exceed a total of \$5,250. Communities may exceed this limit in extraordinary circumstances, if necessary to ensure that a displaced tenant will be able to obtain and retain a decent, safe, and sanitary comparable unit outside of the floodplain.

The “*base monthly rent*” for the displacement dwelling is the lesser of the average monthly cost for utilities plus the rent at the displacement dwelling as determined by the Agency, or 30% of the tenant’s (the URA regulations define tenant as any individual, family, partnership, corporation, or association) - average gross household income. A rental assistance payment may, at the subgrantee’s discretion, be disbursed in either a lump sum or in installments. However, if any HUD programs are providing partial funding for the project, rental assistance payments may not be disbursed in a lump sum. If the tenant chooses to purchase a comparable replacement dwelling, he or she may apply the amount of rental assistance to which they would be entitled towards the down payment.

#### **G. DISPOSITION OF PROPERTY**

1. Property Title and Reconveyance -Depending upon the scope of the project, title to the property is treated in one of two ways:
  - Full title is acquired or accepted by a public entity (the community, a land trust organization, a state agency, etc.); or
  - The subgrantee acquires all development rights to the property, with the original owner retaining only the right to make use of the property for farming or quiet enjoyment.

The subgrantee or other public property owner will seek the approval of the state grantee agency and the FEMA Regional Director before conveying ownership of the property to any other party. The subgrantee or other public entity must retain all development rights to the property. The FEMA Regional Director will only approve the transfer of properties that meet the criteria identified above.

**Note:** In situations where the community is only acquiring development rights to the property, they can provide the property owner an additional incentive to accept the offer by:

- a. Paying to physically relocate the damaged structure to a new site outside of the floodplain;

**Or**

- b. Paying the pre-flood value of the structure and demolition and removal costs.
2. As a condition of receiving the grant, the applicants (community and state) shall enter into an agreement with FEMA that assures:
- a. The property acquired, accepted, or from which structures are removed must carry a permanent deed restriction providing that the property be maintained for open space, recreational, or wetlands management purposes only.
  - b. The deed restriction must also stipulate that no future disaster assistance for any purpose from any federal source will be sought or provided with respect to the property (Insurance claims such as NFIP and Federal Crop Insurance are not considered disaster assistance).
  - c. The deed restriction must also stipulate that no new structures will be erected on the property other than a public facility that is open on all sides or is a rest room and is functionally related to open space (structures that are walled on all sides must meet NFIP minimum requirements).
  - d. In fee simple transactions, the deed restriction must also stipulate that the new title-holder must obtain the approval of the state grantee agency and the FEMA Regional Director before conveying ownership of the property to another public entity. Property transfer to private citizens and corporations will not be approved. The subgrantee or other public entity must retain all development rights to the property.
  - e. The subgrantee shall ensure that all structures be removed from the property within 90 days of closing and disposed of in accordance with applicable laws. (The FEMA Regional Director can grant an exception to this requirement if extenuating circumstances exist).
  - f. The subgrantee accepts responsibility for monitoring and enforcing the deed restriction and/or easement language.

Allowable open space uses can include, but are not limited to parks, nature preserves, cultivation, grazing, and unimproved, pervious parking areas. The demolition and debris removal related to acquired structures may be eligible for reimbursement under FEMA's Infrastructure Support program if the structures represent a health and safety hazard. If costs of demolition do not qualify for Infrastructure Support, they can be cost-shared under the Section 404 program. If any parts of the structure are sold for salvage value, this amount is deducted from the total cost of the project.

The Subgrantee (or whoever holds legal title to the property) must provide for the continued maintenance of the property once the initial debris removal, vegetative site stabilization, and new landscaping is complete.

The Director of FEMA may approve, on a case-by-case basis, the erection of structures which do not meet the criteria above before commencement of construction. However, the structure must be constructed in compliance with the community's floodplain management ordinance, meet NFIP minimum requirements, and be compatible with open space uses and floodplain management policies and practices. A sample warranty deed with the required restrictions is attached as Figure 3.

## **H. TREATMENT OF AGRICULTURAL PROPERTIES**

A community may include agricultural properties in its acquisition/relocation or elevation project under Section 404. However, due to the large tracts of land and unique issues involved, these projects require special consideration. FEMA suggests that communities work with farm property owners on a case by case basis to negotiate an agreement that is acceptable to the farmer, the community, the state, and FEMA. FEMA requests that the community take into consideration the cost of the project and mitigation benefits to be gained in determining what type of offer to make to a farm property owner, as these factors will be considered by FEMA in its review for funding approval. Methods, which can be used to deal with agricultural property, are listed below, the option selected will depend upon the situation of the farmer and the property.

**Situation 1:** If the farmer is **not** interested in continuing to farm or live on the land:

Option 1. Refer the project to the Natural Resource Conservation Service's Wetland Reserve Program for potential funding.

Option 2. The community can offer to acquire all of the property located within the 100-year floodplain and revert it to another open space use (i.e., wetland, park, nature reserve, etc.). However, the benefit cost ratio of this option must be carefully considered.

Option 3. The community can buy the property, ensure that the required permanent restrictions are placed in the deed, and transfer title to a preservation organization, such as a land trust or a governmental agency.

**Situation 2:** If the farmer wants to continue farming the land, and

*The farmer is interested in continuing to live on the property:*

Option 1. And if the farmer owns a large tract of land, part of which is in the 100-year floodplain and part that is not; then the community can acquire the development rights to the floodplain portion and provide the owner an additional incentive as described in paragraph G. 1. above;

**Or**

Option 2. The community can provide funding to the property owner to elevate the farm home and/or wet flood proof farm buildings to meet NFIP requirements (no deed restrictions are necessary).

*The farmer is not interested in continuing to live on the property:*

Option 3. The community can acquire the development rights to all of the farmer's property located in the 100 year floodplain and contiguous to the residential parcel affected by the disaster and provide the owner with an additional incentive as described in paragraph G. 1. above.

For **Situation 2**, Options 1 and 3:

Cultivation is an acceptable open space use under 44 CFR §206.434. However, some limited crop storage capacity on-site is necessary in order for the farmer to operate successfully. In order to allow limited construction of such storage facilities, FEMA has granted a limited exception to the development restrictions. The exception applies only to projects in which the purchasing community and the seller agree to execute an easement using the language in figure 4 (or a more restrictive version). This language (and the exception) should only be used for the purchase of agricultural property.

**Note:** All options above (except Situation 1, Option 1; and Situation 2, Option 2) require full compliance with the property disposition requirements described in Section G.

## I. DUPLICATION OF BENEFITS

In the administration of HMGP grants for property acquisition, FEMA and the grantee should avoid any duplication of benefits with other forms of assistance. FEMA's policy on duplication of benefits for individuals and families is mandated by Section 312 of the Stafford Act and is set forth in 44 CFR §206.191. This Section of the FEMA regulations delineates a delivery sequence establishing the order in which disaster relief agencies and organizations provide assistance to individuals and families. Programs listed later in the sequence are responsible for ensuring that they do not duplicate assistance which should be provided by a program listed earlier on the list (the program with primary responsibility).

For example: Insurance (private and NFIP) is listed as number one in the sequence; the Individual and Family Grant (IFG), which is number four, cannot pay homeowners for damages covered by private homeowner's fire, or national flood insurance. The IFG program is responsible for finding out the amount of the applicant's claim settlements and what damages they covered, and ensuring that it does not provide the applicant duplicative assistance.

In the case of flood-damaged property purchase programs (Section 1362, Section 404, etc.), they are not listed in the delivery sequence, and therefore are positioned after the eight listed programs. This means that all eight programs listed in the sequence at 44 CFR §206.191(d) are "primary programs" in relation to property purchase programs. The property purchase program is required to ensure that it does not duplicate assistance, which should be provided by any of the eight primary assistance programs.

For example: If a homeowner receives funds for structural repairs and also decides to participate in a property purchase program, he or she is entitled to keep the repair grant benefits as long as the funds are used for housing purposes. However, the property purchase program (i.e., Section 404) must reduce its benefit accordingly to avoid duplication.

The procedure for preventing the duplication of primary provider benefits follows:

1. The subgrantee provides the state and/or FEMA with a list of property owners who are participating in the property purchase program.
2. The subgrantee (with the advice and assistance of the state and FEMA) should establish the fair market value of the property.
3. The state and/or FEMA will inform the subgrantee of the amount of assistance (from primary providers) provided to each property owner as a result of the same event initiating the acquisition project.
4. If insurance payments, minimal repair grants, and/or IFG grants were awarded for the purpose of making repairs to a structure, the subgrantee must reduce the purchase offer by the amount of the awards. Reductions should not be taken, however, for repairs that the homeowner can show (with receipts) were actually made.
5. Property owners who have SBA loans are either required to repay the loan or roll it over to a new property at closing.

This procedure does not amount to the repayment of primary provider grant assistance (i.e., IFG, insurance settlements, etc.). The property owner may keep these benefits, but the Section 404 program cannot duplicate them by paying full pre-flood fair market value for the property. If the community is paying the post-flood fair market value of the property, no deductions for primary provider benefits are necessary. The process for determining the purchase offer is outlined in a decision tree that is attached as figure 1.

#### **J. COSTS AND MATCHING CONSIDERATIONS**

The administration of acquisition and relocation projects can be very complex. This is especially true when determining allowable costs and matches. General policies regarding allowable costs and cost sharing requirements are established in 44 CFR §13.22 and §13.24 respectively. When determining eligible costs, it is important that the scope of the project be well defined. For instance, the application should clearly indicate if any structures will be relocated to new sites, if new sites are to be developed, or if the grant is for property acquisition only. All costs that fit within the defined scope of the project and meet the criteria at 44 CFR §13.22 should be shared on a 75% federal and 25% state or local matching basis.



## **Questions and Answers Regarding Allowable Costs and Matches**

### *1. Can individual property owners provide the match for Section 404 grants?*

Yes, as long as it does not violate state laws and regulations. Individuals may use their own funds to match HMGP funds provided through the community, including loans received from the Small Business Administration (SBA) and Farmer's Home Administration (FHA). In this situation, the cost of the grant would be based on the fair market value of the property and HMGP would provide the subgrantee 75% of that value to purchase the property.

### *2. Can money originating from other federal sources be used to match FEMA Section 404 funds?*

Generally not, however, a subgrantee can use Department of Housing and Urban Development Community Development Block Grant (CDBG) (entitlement and small cities) monies as a match for 404 grant funds for property acquisition programs. Also, SBA and FHA consider their loan funds to lose their federal identity once the loan to the individual is approved. Therefore, as stated above, homeowners can apply their SBA or FHA loans to match HMGP funds.

### *3. Can the subgrantee claim loss of tax revenue (due to taxpayers relocating outside the jurisdiction) as a soft match?*

No. The Office of Management and Budget (OMB) advises that loss of tax revenue does not meet the criteria for a grant match.

### *4. How are the "associated" costs (i.e., legal fees, transfer fees, demolition and removal costs, landscaping, etc.) treated in calculating total project costs*

To avoid confusion, associated costs should be identified in the project application as being within the scope of the project. Associated costs that meet the criteria (44 CFR §13) for allowable costs, referenced above, may be shared on a 75/25 percent matching basis. This includes the cost of "in kind" services performed by the subgrantee. In some cases, the costs of demolition or new infrastructure development may be eligible under the FEMA Public Assistance program.

### *5. If the subgrantee sells or leases a property acquired with HMGP funds can they retain any income from the transaction?*

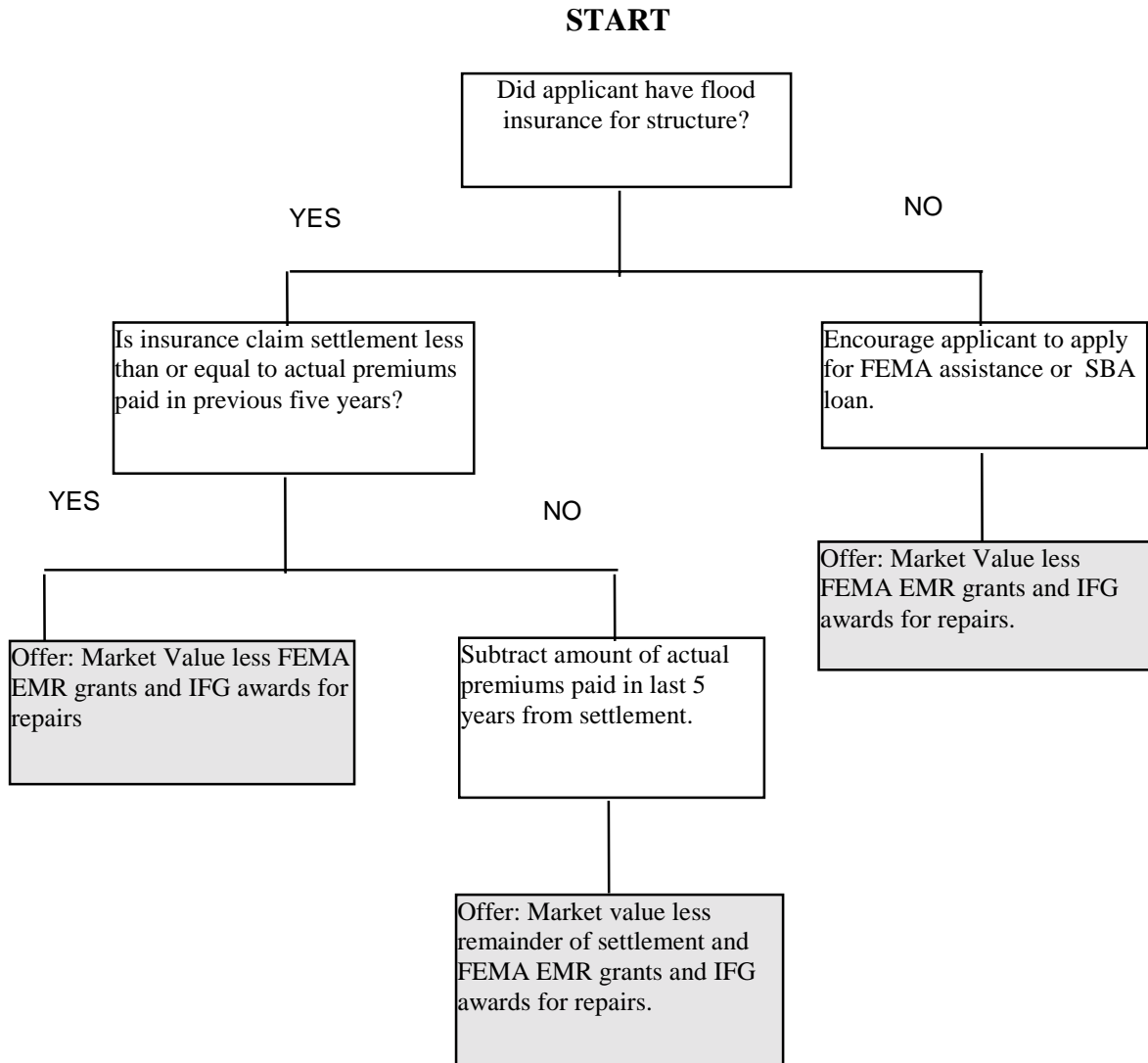
The subgrantee must request the approval of the state and the FEMA Regional Director before conveying the deed to another party (**public entity only**). If the grant period is still open (as indicated in the grant agreement and the final financial report), any income from sale or lease of the land must be deducted from the overall cost of the project. However, once the grant period is ended, any income generated from the property belongs to the titleholder. See 44 CFR §13.25 for further details.

*6. Do the standard wage rate requirements set forth in the Davis-Bacon Act and related Acts apply to HMGP projects?*

Davis-Bacon wage rates apply only to work that FEMA contracts for directly, not to grantee-contracted work. However, standard wage rates do apply to some HUD grant funds depending on the funding program and the type, scope, and size of the project. FEMA should coordinate with HUD field representatives to determine whether the rates apply to specific projects. If standard rates do apply, the additional cost is eligible under the HMGP at the same cost-share as the overall project.

**FIGURE 1**

**Acquisition and Relocation Programs  
Applicant Assistance Decision Tree  
How to Determine Purchase Offer**



EMR: Emergency Minimal Repairs

IFG: Individual and Family Grant

Note: Participants may be required to repay SBA loans at closing

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

Federal Register I-Vol. 59, No. 90 / Wednesday, May 11, 1994 /  
Rules and Regulations 24355

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206 RIN 3067-A

Disaster Assistance; Hazard Mitigation and Relocation Assistance

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Interim rule.

**SUMMARY:** This interim rule increases the Federal share for eligible hazard mitigation and relocation assistance projects from a maximum of 50 percent to 75 percent, increases the total amount of grant assistance available for each disaster, and places restrictions on property acquisition and relocation projects. The intent of the changes are to carry out the Hazard Mitigation and Relocation Assistance Act of 1993, which provides new flexibility in hazard mitigation and relocation assistance to States.

**EFFECTIVE DATE:** May 11, 1994

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Shea  
Chief  
Program Implementation Division, Room 417  
500 C Street SW  
Washington, DC 20472  
(202) 646-3619

**SUPPLEMENTARY INFORMATION:** The President signed the Hazard Mitigation and Relocation Assistance Act (the Act) Pub L 103-181 on December 3, 1993. The Act amends Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) 42 U.S.C. 5170c, to increase the Federal contribution to 75 percent, to increase the limit of Federal expenditures, and to place restriction on property acquisition and relocation project grants. The interim rule amends 44 CFR §206 to implement the Act.

We amend the definition of the grant to include the newly established limit on the total grant award. The Act states that the grant award for hazard mitigation shall not exceed 15 percent of the total estimated Federal grant assistance (excluding administrative costs) provided under the Stafford Act. Grant assistance is available under §403, 406, 407, 408, 410, 411, 416 and 601 of the Stafford Act. FEMA will estimate the amount of assistance provided under these sections based on available data summarized in the damage survey reports and the Disaster Management and Projections report. FEMA will include in this total the cost of mission assignments to other agencies that provide functions that would normally be funded as grant assistance. The Act increases from 50 percent to 75 percent the maximum Federal contribution of the cost of hazard mitigation measures and increases total grant awards from 10 percent of §406 to 15 percent of the total estimated Federal Assistance under the Stafford Act.

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

Under the Act FEMA must restrict the eligibility of projects involving property acquisition and relocation assistance for property owners and structures. An eligible applicant must enter an agreement with the Director of FEMA that provides assurances that the property will be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices and no future Federal disaster assistance in any form will be sought or given with respects to the property. No structures can be built on these properties unless they are public facilities and functionally related to open space usage and are open on all sides or are rest rooms.

The Director of FEMA may approve other structures, in writing and before construction begins. The Director's approval will be granted rarely, and when granted, buildings must be compatible with open space, recreational, or wetlands management practices and be in accordance with sound floodplain management.

The Act makes the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 inapplicable to properties damaged by flooding during the 1993 Midwest Floods when certain conditions are met. We define the conditions under which acquisition of certain properties in nine Midwestern States is not subject to the Uniform Relocation Act. The intent and effort of this provision is to simplify and speed the acquisition and relocation process in the nine States severely affected by the Midwest Floods of 1993.

**National Environmental Policy Act** – This rule is excluded for the requirements of 44 CFR §10, Environmental Consideration. No environmental assessment has been prepared.

**Executive Order 12866, Regulatory Planning and Review** – Promulgation of this interim rule is required by statute, 42 U.S.C. 5170 (c), which also specifies the regulatory approach taken in the proposed rule. To the extent possible under the statutory requirements of 42 U.S.C. 5170 (c) this proposed rule adheres to the principles of regulation as set forth in this Executive Order.

**Paperwork Reduction Act** – This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

**Executive Order 12612, Federalism** – In promulgation, this rule has considered the President's Executive Order 12612 on Federalism. This rule makes no changes in the division of governmental responsibilities between the Federal government and the States. Grant administration procedures under 44 CFR §13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Governments, remain the same. No Federalism assessment has been prepared.

**Executive Order 12778, Civil Justice Reform** – This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform, dated October 25, 1991, 3 CFR, 1991 Comp. page 359. List of Subjects in 44 CFR §206, Administrative practice and procedure, Community facilities, Disaster Assistance, Grant programs housing and community development, Housing, Natural resources.

Accordingly, 44 CFR §206 is amended as follows:

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

1. The authority citation for §206 continues to read as follows:  
  
Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act. 42 U.S.C. 5121 et seq; Reorganization Plan No. 3 of 1978, 5 U.S.C. App. I:E.O. 12148, 3 CFR, 1979 Comp. page 412 and E.O. 12673, 3 CFR, 1989 Comp. page 214.
2. Section 206.430 is revised to read as follows:  
  
§206.430 General - This subpart provides guidance on the administration of hazard mitigation grants made under the provisions of section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c, hereafter Stafford Act, or the Act.
3. Paragraph (c) of Section 206.431 is revised to read as follows:  
  
§206.431 Definitions  
  
(c) *Grant* - An award of financial assistance. The total grant award shall not exceed ten percent of the estimated Federal assistance provided under section 406 of the Stafford Act for major disasters declared before June 10, 1993. For major disasters declared on or after June 10, 1993, the total grant award shall not exceed 15 percent of the total estimated Federal assistance (excluding any associated administrative costs) provided under sections 403, 406, 407, 408, 410, 411, 416 and 601 of the Stafford Act.
4. Paragraphs (b) and (c) of section 206.432 are revised to read as follows:  
  
§206.432 Federal Assistance  
  
(b) *Limitations on Federal expenditure* – The total of Federal assistance under section 404 shall not exceed 15 percent of the total estimated Federal assistance (excluding any associated administrative costs) provided under sections 403, 406, 407, 408, 410, 411, 416 and 601 of the Stafford Act. The estimate of Federal assistance under these sections shall be based on the Regional Director’s estimate of all Damage Survey Reports, actual grants, mission assignments, and associated expenses.  
  
(c) *Cost Sharing* – All mitigation measures approved under the state’s grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA may contribute up to 75 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared on or after June 10, 1993. FEMA may contribute up to 50 percent of the cost of measures approved funding under the Hazard Mitigation Grant Program for major disasters declared before June 10, 1993. The nonfederal share may exceed the Federal share. FEMA will not contribute to costs above the federally approved estimate.

Section 206.434 is amended by revising paragraph (c)(4), redesignating paragraphs (d) and (a) as paragraphs (f) and (g) respectively, and adding new paragraphs (d) and (e) to read as follows:

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

§206.434 Eligibility.

- (c)
  - (4) Property acquisition or relocation, as defined in §206.434(d):
- (d) *Property acquisition and relocation requirements* - A project involving property acquisition or the relocation of structures and individuals is eligible for assistance only if the applicant enters an agreement with the FEMA Regional Director that provides assurances that:
  - (1) The following restrictive covenants shall be conveyed in the deed to any property acquired, accepted, or from which structures are removed (hereafter called in section (d) the property):
    - (i) The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and
    - (ii) No new structure(s) will be built on the property except as indicated below:
      - (A) A public facility that is open on all sides and functionally related to a designated open space or recreational use:
      - (B) A rest room, or
      - (C) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices, which the Director of FEMA approves in writing before the construction of the structure begins.
    - (iii) After completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any Federal entity or source, and no Federal entity or source will provide such assistance.
  - (2) In general, allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except when adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, previous parking lots, and buffer zones.
  - (3) Any structures built on the property according to paragraph (d)(1) of this section, shall be flood-proofed or elevated to the Base Flood Elevation plus one foot of freeboard.
- (e) *Inapplicability of the Uniform Relocation Act* - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1971 does not apply to real property acquisition projects that meet the criteria identified below:

*ADDENDUM 1*  
*44 CFR §206 RIN 3067-A*

- (1) The project provides for the purchase of property damaged by the major widespread flooding in the states of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin during 1993;
  - (2) It provides for such purchase solely as a result of such flooding;
  - (3) It is carried out by or through a state or unit of general local governments;
- The purchasing agency (grantee or subgrantee) notifies all potential property owners in writing that it will not use its power of eminent domain to acquire the properties if a voluntary agreement is not reached:
  - The project is being assisted with amounts made available for
    - \* Disaster relief by the Federal Emergency Management Agency;
- OR**
- \* By other Federal financial assistance programs

(Catalogue of Federal Domestic Assistance No. 83-516, "Disaster Assistance")

Dated: May 4, 1994

James L. Witt, Director

(FR Doc. 94-11422 Filed 5-10-94; 8:45 am)



*ADDENDUM 2*  
*SAMPLE ACQUISITION LETTER*

Your Community  
Somewhere Washington

Date

Property Owner  
Address  
Somewhere, Washington 98XXX

Dear Mr./Ms. Property Owner:

I have been authorized to enter into negotiations with property owners in the (*city/county - your community*), Washington, for the purpose of purchasing property that has been, or could be, damaged by flooding. Title to such property, if purchased, would be transferred to (*your jurisdiction*), Washington. The acquisition of property can only be accomplished through voluntary sale by you, the property owner. As the (*jurisdiction's*) attorney/agent I will explain your rights and options under this program, present you the Statement of Determination of Compensation and Offer to Sell, as well as handle any negotiations concerning the property.

The information concerning your property and specifically the appraiser's report has been considered and the pre-flood fair market value of your property has been evaluated where possible. The appropriate amount of compensation for your property has been determined and is documented in the enclosed "Statement of Determination for Compensation".

You should carefully review the enclosed material and the "Offer to Sell Real Property" and consider one of the following options which are available to you:

- (1) Make an Offer to Sell Real Property for the amount specified in the Determination of Compensation. If you wish to sell your property for the amount specified in the Determination of Compensation, please sign and return to the (*jurisdiction's*) attorney/agent the enclosed Offer to Sell Real Property in duplicate no later than two weeks after receipt. Once all signed copies are returned to the (*jurisdiction's*) attorney/agent, one copy will be executed and returned to you. Upon receipt the transaction may proceed to closing.
- (2) Reject this invitation to make an Offer to Sell. If you wish to reject this invitation and you do not want to continue negotiation for the sale of your property, then please notify the (*jurisdiction's*) attorney/agent of your decision no later than two weeks after receipt. The acquisition process for your property will be terminated at this point.
- (3) Contest the amount specified in the Determination of Compensation. If you believe that the amount of compensation specified in the Determination of Compensation does not adequately reflect the pre-flood fair market value of your property and you still desire to continue negotiations, then you may contest the determinations by (a) retaining at your own expense a licensed, certified appraiser, to perform a second appraisal, within two weeks of receiving the Offer to Sell; (b) notifying in writing the (*jurisdiction's*) attorney/agent of your decision; and, (c) forwarding the second appraisal once completed

*ADDENDUM 2*  
*SAMPLE ACQUISITION LETTER*

to the (*jurisdiction's*) attorney/agent so it can be sent to the state for review, and after reviewed, the (*jurisdiction*) will begin a new negotiation for compensation amount.

Once the new invitation and the amended document are received, you may execute the original or amended Offer to Sell Real Property and mail the offer to the (*jurisdiction's*) attorney/agent within two weeks of receipt, or you may terminate the transaction.

If you have made repairs to your property using some of your flood insurance proceeds or Individual and Family Grant (IFG) structural monies, please present all paid receipts (invoices, canceled checks, etc.) to the (*jurisdiction's*) attorney/agent of the closing meeting. If approved, the offer will be adjusted to reflect the repairs.

As mentioned previously, you will have two weeks after receipt of this material to sign the Offer to Sell Real Property. The (*jurisdiction*) would like to proceed with the process for property purchase as soon as possible; therefore, we would appreciate your early consideration of this matter.

I know this is an important decision for you, therefore, the (*jurisdiction's*) attorney/agent will meet with you personally to present this information and to answer any questions you may have in this matter. I hope we will be able to negotiate the purchase of your property in order to provide you the opportunity to move to a flood-free location. If you have any questions, please contact Mr./Ms. (*jurisdiction representative*) at (123) 555-1212.

Sincerely,

(*Jurisdiction's*) attorney/agent

enclosures

cc: State EMD/HMGP

*ADDENDUM 2*  
*SAMPLE ACQUISITION LETTER*

STATEMENT OF DETERMINATION OF COMPENSATION

- I. Property Location: Somewhere, Washington: Parcel -
- II. Legal Description:
- III. Owner(s) of Record: Mr./Ms. Homeowner
- IV. Interest to be acquired: Fee Simple
- V. Amount of Compensation: \$\_\_\_\_\_. This amount is based on an estimated value of \$\_\_\_\_\_ from which an insurance payment of \$ \_\_\_\_\_ has been deducted. It is believed to be just compensation for the property and is not less than the fair market appraisal that was done on your property.
- VII. Description of Appraisal Technique: The amount of compensation disregards any increase in the pre-flood fair market value of the property caused by this project. The amount of compensation is based upon an appraisal which utilized the \_\_\_\_\_ approach for studying the property in the light of its own characteristics and location in relation to sales of other similar sites in the same general area.

The appraisal estimated the fair market value of this property as of *(date)*. The definition of Market Value used was:

“The amount of cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.”

*ADDENDUM 3*  
*SAMPLE VOLUNTARY TRANSACTION AGREEMENT*

AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the (City/County) of \_\_\_\_\_, a municipal corporation, by its agent and attorney, \_\_\_\_\_, hereinafter called the (*JURISDICTION*), and \_\_\_\_\_, hereinafter called SELLER(s).

WITNESSETH:

That the (*JURISDICTION*) is acting under a grant from the Washington State Military Department, Emergency Management Division (EMD), to purchase certain property in the (city/county) of \_\_\_\_\_, \_\_\_\_\_ County, Washington, in which the SELLERS own a parcel as described in Exhibit "1", attached hereto and made a part of.

SELLERS represent that their property is located in the floodplain and qualify for the assistance being granted and are UNDER NO OBLIGATION TO SELL THEIR PROPERTY UNDER THIS PROGRAM, BUT DO SO VOLUNTARILY.

The parties agree as follows:

1. SELLERS have been supplied with a copy of the appraisal of \_\_\_\_\_, said appraisal has been reviewed and approved by EMD, with the established Pre-Flood Fair Market Value (FMV) \$\_\_\_\_\_ as of the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.
2. SELLERS acknowledge that the price to be paid for clear title is the fair market value with deductions in the amount of \$\_\_\_\_\_ for any flood insurance payment received by SELLERS for structural damage and \$ \_\_\_\_\_ for which the Individual and Family Grant (IFG) program for which the SELLER cannot document as expended on repair of the damaged structure.
3. SELLERS agree that they will, in writing, furnish to the (*JURISDICTION*) within five (5) days from the date of this AGREEMENT, a list of all liens of any kind known to the SELLERS, including but not limited to mortgages, mechanics liens, judgment liens, and past due taxes.
4. It is understood by all parties that the proceeds from the sale shall first be applied to all liens on the property, including real estate taxes for the entire year 19\_\_\_\_. It is further understood that the Hazard Mitigation Grant Program (HMGP) funds being used for the purchase of the property, cannot and will not duplicate benefits received for the same from any other funds. SELLERS will return any disaster aid money received if it constitutes a duplicity of benefits.

*ADDENDUM 3*  
*SAMPLE VOLUNTARY TRANSACTION AGREEMENT*

5. SELLERS understand and agree that any replacement housing purchased with EMD monies WILL NOT BE IN ANY FLOOD ZONE A (100 year flood zone) as identified in the Flood insurance Rate Maps of any applicable jurisdiction.
6. SELLERS agree they will execute all necessary documents to transfer title to the property to the (*JURISDICTION*) and also agree to execute now and in the future, any and all documents required by the (*JURISDICTION*) or EMD to complete this transaction and to comply with City, County, State and Federal regulations.
7. No fixtures, materials or improvements to the real estate shall be removed from the premises, and, because of legal liability reasons, the (*JURISDICTION*) will not permit any materials to be salvaged at this time or at the time of demolition. Any violation of this agreement may result in changing the fair market value of the structure. The value of any property removed will be solely determined by the (*JURISDICTION*) and will be deducted from the purchase price, if the purchase price has not yet been paid in full, or must be repaid by the SELLER within ten (10) days after removal if the purchase price has been paid to the SELLER.
8. SELLERS represent unto the (*JURISDICTION*) that they will vacate the property at the time of closing.
9. SELLERS acknowledge that they have had an opportunity to review this contract and they have had an opportunity, if they so choose, to contact an attorney of their choice to review this AGREEMENT, and enter into the AGREEMENT fully understanding the nature thereof and saves and holds harmless the (*JURISDICTION*), or any representative, of any liability or responsibility as a result of this contract or anything incident to the sale.

This AGREEMENT is binding upon the heirs, executors, successors and assigns all parties.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

SELLER (S) \_\_\_\_\_

(City/County) of \_\_\_\_\_, a municipal corporation

By: \_\_\_\_\_

*ADDENDUM 3*  
*SAMPLE VOLUNTARY TRANSACTION AGREEMENT*

**HAZARD MITIGATION GRANT PROGRAM**

For projects that involve the acquisition/relocation of properties in the floodplain, the following eligibility criteria and assurances from 44 CFR §206.434 (d) apply:

1. The following restrictive covenants shall be conveyed in the deed of any property acquired, accepted, or from which structures are removed (hereafter called the property).
  - a. The property shall be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and
  - b. No new structure(s) will be built on the property except as indicated below:
    - (1) A public facility that is open on all sides and functionally related to a designated open space or recreation use;
    - (2) A restroom; or
    - (3) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices which the Director approves in writing before the construction of the structure begins.
  - c. After completion of the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any federal entity or source, and no federal entity or source will provide such assistance.
2. In general allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, pervious parking lots, and buffer zones.
3. Any structures built on the property shall be flood-proofed or elevated to the Base Flood Elevation plus one foot of freeboard.

**ADDENDUM 4**  
**ATTACHMENT TO DEEDS FOR FEE SIMPLE ACQUISITIONS**

For fee simple acquisition (acquiring title to land), use Exhibit A

1. FEMA Regional Director should concur on the state-applicant agreement that must reference and attach Exhibit A in the deed and record it with the deed.
2. The applicant shall reference Exhibit A in the deed and record it with the deed.

**EXHIBIT A**

In reference to the Deed between [*the property owner*] participating in the FEMA/ State of Washington Military Department, Emergency Management Division acquisition project “The Grantor” and [*the City of .....*], referred to as “The Grantee”

WHEREAS, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended (“The Stafford Act”), identifies the use of disaster relief funds under Section 404 (Hazard Mitigation Grant Program, “HMGP”), including the acquisition and relocation of structures in the floodplain;

WHEREAS, Section 404 of the Stafford Act provides a process for a community, through the state, to make application for funding to be used to acquire interests in property, including the purchase of structures in the floodplain, to demolish and/or remove the buildings, and to convert the land use into perpetual open space;

WHEREAS, the Washington State Military Department, Emergency Management Division (“DEPARTMENT”) has made such application and has entered into a Federal-State Agreement dated [*DATE as amended*] and herein incorporated by reference;

WHEREAS, the [*City of .....*], acting by and through the (council/board/commission), has entered into a cooperative grant agreement with the DEPARTMENT dated [*DATE*] (“Grant Agreement”), and herein incorporated by reference -- [include when attached to deed];

WHEREAS, the terms of the Stafford Act, regulations promulgated thereunder (44 C.F.R. § 206.434), and the Federal-State Agreement require that the Grantee agree to conditions which are intended to restrict the use of the land to open space in perpetuity in order to protect and preserve natural floodplain values; and

NOW, THEREFORE, the grant is made subject to the following terms and conditions:

*ADDENDUM 4*  
*ATTACHMENT TO DEEDS FOR FEE SIMPLE ACQUISITIONS*

1. Terms. Pursuant to the terms of the Stafford Act, regulations promulgated thereunder (44 CFR §206.434), as they read now and may be amended in the future, and the Federal-State Agreement, the following conditions and restrictions shall apply in perpetuity to each property described in the attached deed and acquired by the Grantee pursuant to the Stafford Act § 404:
  - (a) Compatible uses: The land shall be used only for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreation activities, nature reserves, unimproved pervious parking lots and other uses described in 44 CFR §206.434, as it reads now and may be amended in the future.
  - (b) Structures: No new structures or improvements shall be erected on the property other than:
    - (i) a public facility that is open on all sides and functionally related to the open space use;
    - (ii) a rest room; or
    - (iii) a structure that is compatible with the uses described in Paragraph 1 (a), above, and approved by the FEMA Regional Director in writing prior to the commencement of the construction of the structure. Any structures built on the property according to this paragraph shall be flood proofed or elevated to the Base Flood Elevation plus one foot of freeboard.
  - (c) Disaster Assistance: No future disaster assistance from any Federal Source for any purpose related to the property may be sought, nor will such assistance be provided;
  - (d) Transfer: The Grantee agrees that it shall convey any interest in the property only with prior approval of the transferee from the Regional Director of FEMA and only to another public entity or to an organization qualified under Section 170 (h) of the Internal Revenue Code of 1954, as amended, and applicable regulations promulgated thereunder. However, the Grantee may convey a lease to a private individual or entity for purposes compatible with the uses described in Paragraph 1 (a), above, including agriculture, with the prior approval of the Regional Director.

Title to the property must be conveyed subject to a Conservation Easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth herein, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:

- (i) the Grantee shall convey, in accordance with section (d), above, a conservation easement to someone other than the title holder, or
- (ii) at the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.



*ADDENDUM 4*  
*ATTACHMENT TO DEEDS FOR FEE SIMPLE ACQUISITIONS*

2. Inspection: FEMA, its representatives, and assignees, including the DEPARTMENT, shall have the right to enter upon the property, at reasonable times and with reasonable notice, for the purpose of inspecting the property to ensure compliance with the terms of the grant.
3. Enforcement: If the subject property is not maintained according to the terms of the grant, FEMA, its representatives, and assignees, the DEPARTMENT and the Grantee are responsible for taking measures to bring the property back into compliance.
  - (a) The DEPARTMENT will notify the Grantee in writing and advise the Grantee that they have 60 days to correct the violation.
  - (b) If the Grantee fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the DEPARTMENT shall enforce the terms of the grant by taking any measure it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.
  - (c) FEMA may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to the following:
    - (i) requiring transfer of title in accordance with Paragraph 1 (d). The Grantee shall bear the costs of bringing the property back into compliance with the terms of the grant; or
    - (ii) bringing an action at law or in equity in a court of competent jurisdiction against the DEPARTMENT or the Grantee.
5. Severability: Should any provision of this grant or the application thereof to any person or circumstance is found to be invalid or unenforceable, the rest and remainder of the provisions of this grant and their application shall not be affected and shall remain valid and enforceable.

**[Signed by Grantor(s) and Grantee, witnesses and notarization in accordance with local law**



# RELOCATION ASSISTANCE TO TENANTS

## Application and Worksheet

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Displaced Tenant: \_\_\_\_\_

Displaced Dwelling Address: \_\_\_\_\_

\_\_\_\_\_

Contact Information for Displaced Tenant: \_\_\_\_\_  
(e.g. current phone number)

Owner of Displacement Dwelling: \_\_\_\_\_

Relocation Assistance Application/Worksheet Completed by: \_\_\_\_\_

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**Step 1. 90 Day Rule**

1. Date of negotiations with owner of dwelling: \_\_\_\_\_
2. Days prior to date listed in (1): \_\_\_\_\_
3. Date tenant moved into displaced dwelling: \_\_\_\_\_
4. Is date in (3) before date in (2)..... Yes      No
  - If No, **STOP**; tenant is not eligible for assistance. If Yes, proceed to (5).
5. Does tenant still reside in displaced dwelling? ..... Yes      No
  - If No, proceed to (6). If Yes, tenant meets 90 day rule, proceed to Step 2.
6. Date Tenant moved from displaced dwelling: \_\_\_\_\_
7. Is date in (6) before date in (2)?..... Yes      No
  - If Yes, **STOP**; tenant is not eligible for assistance. If No, tenant meets 90 day rule, proceed to **Step 2**.

**Step 2. Income Verification**

1. Tenant's Annual Income: \$ \_\_\_\_\_  
 Definition of Annual Income: All income reported on federal tax return, interest income, net income from rental property ownership, social security payments, Unemployment benefits and welfare payments for the 12 month period prior to displacement.

2. Which of the following was used to determine annual income? (circle one)

*Income tax forms**Payroll receipts**3<sup>rd</sup> party verification*

Copy documentation and retain with application; 3<sup>rd</sup> party verification forms are submitted to employer, social service office or other income source to be completed and returned with signature.

**Step 3. Percentage of Annual Income**

1. Tenant's annual income: \$ \_\_\_\_\_  
 2. Multiply by: .30 or (30%) \$ \_\_\_\_\_

**Step 4. Low to Moderate Income Determination**

1. Refer to LMI standards (CDBG manual).  
 2. Is tenant considered LMI according to standards? ..... Yes No

**Step 5. Determine Replacement Dwelling Monthly Rent**

1. Monthly rent tenant pays/will be paying for replacement dwelling (requires proof): \$ \_\_\_\_\_  
 2. Average monthly utilities (requires landlord statement or utility company documents):

a) Water \$ \_\_\_\_\_

b) Sewer \$ \_\_\_\_\_

c) Gas \$ \_\_\_\_\_

d) Electricity \$ \_\_\_\_\_

e) \_\_\_\_\_ \$ \_\_\_\_\_

f) \_\_\_\_\_ \$ \_\_\_\_\_

g) **TOTAL:** \$ \_\_\_\_\_ **(average monthly utilities)**

**NOTE:**  
 If the tenant plans to purchase home, "Replacement Dwelling Rent" equals Fair Market Rent as determined in

1. Replacement dwelling monthly rent \$ \_\_\_\_\_  
 (Equals total of line 1 and Line 2. g)

**Step 6 Determine Fair Market Rent for Comparable Replacement Dwelling**

1. Does replacement dwelling meet the following criteria for comparable, decent, safe and sanitary?

|   |     |    |
|---|-----|----|
| a) Functionally equivalent to (equal or better than) displacement home?   | Yes | No |
| b) Actually available for rent?   | Yes | No |
| c) Affordable?  | Yes | No |
| d) Reasonably accessible to place of employment?  | Yes | No |
| e) Generally well located to public and commercial facilities (schools, stores, etc.) as compared to displacement dwelling? | Yes | No |
| f) Not subject to unreasonable adverse environmental conditions?  | Yes | No |
| g) Available to all persons regardless of race, color, religion, sex, or national origin?                                   | Yes | No |
| h) Meets applicable housing & occupancy requirements  | Yes | No |
| i) Is structurally sound, weather tight and in good repair?   | Yes | No |
| j) Contains a safe, adequate electrical wiring system?  | Yes | No |
| k) Has adequate living space for the occupants?   | Yes | No |
| l) Has a kitchen with a sink, hot and cold running water?   | Yes | No |
| m) Has a connection for a stove and refrigerator?   | Yes | No |
| n) Has a separate complete bathroom with hot and cold running water?  | Yes | No |
| o) Has heating as required by climatic conditions?  | Yes | No |
| p) Has an unobstructed exit to safe open space at ground level?   | Yes | No |
| q) Meets standards protecting occupants from lead based paint hazards?  | Yes | No |
| r) If tenant is physically handicapped, is free of any barriers which could preclude reasonable use of unit?                | Yes | No |

Generally, all answers in this section should be YES

Number of bedrooms in displaced dwelling: \_\_\_\_\_

Number of bedrooms in replacement dwelling \_\_\_\_\_

If replacement dwelling is larger than displaced dwelling,  
does family size indicate a need for a larger dwelling? Yes No

Fair Market Rent (CDBG manual): \_\_\_\_\_

Replacement Dwelling Rent (determined in Step 5) \_\_\_\_\_

Is replacement Dwelling Rent equal to or less than Fair Market Rent? Yes No

- If **Yes**, proceed to **Step 7** entering the Replacement Dwelling Rent amount on line 1 of Step 7.
- 
- If **No**, proceed to **Step 7** entering the Fair Market Rent amount on line 1 of Step 7.

**Step 7. Determine Rent and Utility Increase Payment**

1. Enter Replacement Dwelling Rent or Fair Market Rent as determined in Step 6: \$ \_\_\_\_\_
  2. 30% of tenant's annual income (determined in Step 2) divided by 12: \$ \_\_\_\_\_
  3. Difference (subtract line 2 from line 1): \$ \_\_\_\_\_
  4. Is line 3 \$-0- or less? Yes No
    - If **Yes**, proceed to **Step 8** (tenant does not qualify for Rent Utility Increase Payment.)
    - If **No**, continue with this section
  5. Is tenant considered LMI? (refer to Step 4): Yes No
    - If **Yes**, enter amount of line 3: \$ \_\_\_\_\_  
     multiply by **60**: \$ \_\_\_\_\_
    - If **No**, enter amount of line (3) \$ \_\_\_\_\_  
     multiply by **48**: \$ \_\_\_\_\_
- Enter the lesser of line 5(a), 5(b), or \$5,250: \$ \_\_\_\_\_

**Step 8 Reasonable Out-of-Pocket Moving Expenses**

There are two methods to determine out-of-pocket moving expenses. A community must decide which method to utilize for all displaced tenants. The method used for the first displaced tenant must be used for all subsequent tenant calculations.

**Method 1:**

Actual expenses incurred (include receipts) \$ \_\_\_\_\_

Add reasonable out-of pocket moving expenses

which may include but are not limited to :

Transportation for tenant and family: \$ \_\_\_\_\_

Packing, moving and unpacking household goods: \$ \_\_\_\_\_

Disconnecting and reconnecting household appliances: \$ \_\_\_\_\_

Storage of household goods: \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL Actual out-of-pocket expenses** \$ \_\_\_\_\_

**Method 2** Utilize HUD moving expenses chart  
(CDBG manual)

\$ \_\_\_\_\_

**STEP 9**

|   | <b>Total Payment Due Displaced Tenant</b> |
|---|---|
| 1. Rent and Utility Increase payment (determined in Step 7).<br>Cannot exceed \$5,250.00        | \$ _____                                  |
| 2. Add: reasonable Out-of-Pocket Moving expenses<br>(Total from the preferred method in Step 8) | \$ _____                                  |
| 3. Equals: TOTAL PAYMENT DUE DISPLACED TENANT:<br>(add line 1 and Line 2)                       | \$ _____                                  |